

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47094 of 2023

Arising Out of PS. Case No.-197 Year-2020 Thana- JAKKANPUR District- Patna

MITHLESH KUMAR SON OF LATE RAGHO PRASAD RESIDENT OF
VILLAGE- MAURYA SALE GALI, MITHAPUR, PS- JAKKANPUR,
DISTT- PATNA

... .. Petitioner/s

Versus

1. The State of Bihar
2. MANAGING DIRECTOR, SOUTH BIHAR POWER DISTRIBUTION
COMPANY, LTD. VIDHYUT BHAWAN, BAILEY ROAD, PATNA
BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Vijay Kumar Sinha, Adv.
For the Opposite Party/s :	Mr.Brajendra Nath Pandey, APP
	Mr.Ajay Kumar Gautam, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

- 3 16-01-2024 Heard learned counsel for the petitioner, learned counsel
for the South Bihar Power Distribution Company Ltd. and
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case
registered for the offence punishable under Section 379 of the
Indian Penal Code and Section 135 of the Electricity Act.

3. On secret information, a raid was conducted at the
industrial premises of the petitioner at Verma Sale Gali,
Mithapur, Patna where it was found that the electric was
consuming after inserting the copper wire from main L.T. Line
by hook.



4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He submits that on 10.04.2018, one Special Task Force was constituted by the South Bihar Power Distribution Company Ltd. who inspected the premises of the petitioner. Different parameter was reflected by the meter which were recorded and in considered opinion of the inspecting team, there was no irregularity with regard to the meter or installation of the electric equipment since the unit was not in operation at the time of inspection. He further submits that petitioner has criminal antecedent as stated in para-3 of the bail application.

5. Learned counsel for the South Bihar Power Distribution Company Ltd. has filed a counter affidavit in which it is stated that during inspection of the ice factory, the inspection cum seizure report under Section 135 of the Electricity Act was prepared in presence of independent witnesses but they refused to sign thereon. Three PCC were about (12.0 meter, 7.0 meter and 7.0 meter) with aluminium jumper and one were about 7 meters without aluminium jumper were seized. Learned counsel for the South Bihar Power Distribution Company Ltd. further submits that the Assessing Officer passed an order dated 07.03.2020 on the ground that



theft was being committed since long. He further submits that the suspicion goes up to the period of two years but the statutory limitation is 12 months only. Hence, the assessment was done for 12 months along with other grounds and observed that the final assessment order as passed therein is being forwarded to the consumer for needful payment or preferring appeal under Section 127 of the Electricity Act. The petitioner has not challenged the order dated 07.03.2020 anywhere, therefore, the order has attained finality and the petitioner is liable to pay entire loss amount. Learned counsel for the South Bihar Power Distribution Company Ltd. lastly submits that the petitioner is at liberty to file an appeal within three months against the aforesaid order.

6. Considering the facts and circumstances of the case, let the above named petitioner in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on **provisional bail for a period of four months** on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Jakkanpur P.S. Case No. 197 of 2020, subject to the condition



as laid down under Section 438 (2) of the Cr.P.C.

7. The provisional bail of the petitioner shall be confirmed by the learned court below after satisfying that the petitioner has filed the appeal against the final assessment order.

(Anjani Kumar Sharan, J)

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