

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51167 of 2024

Arising Out of PS. Case No.-46 Year-2024 Thana- CHARPOKHARI District- Bhojpur

=====

Chedi Sah Son of Late Doodhnath Sah Resident of - Kaup, P.S. -
Charpokhari, Bhojpur, Bihar – 802203. Petitioner/s

Versus

1. The State of Bihar
2. Assistant Electrical Engineer, Electricity Supply Power Division, Garhani
... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Ms. Kritika Upadhaya, Advocate
For the O.P. No.2 : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Akhileshwar Singh, Advocate
Mr. Venkatesh Kirti, Advocate
For the State : Mr. Md. Aslam Ansari, APP

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 21-08-2024 Heard Ms. Kritika Upadhaya, learned counsel

appearing on behalf of the petitioner, Mr. Vinay Kirti Singh,
learned senior counsel along with Mr. Akhileshwar Singh and
Mr. Venkatesh Kirti, learned counsels appearing on behalf of the
opposite party no.2 and Mr. Md. Aslam Ansari, learned APP
appearing on behalf of the State.

2. As prayed for, learned counsel appearing on behalf
of the petitioner is permitted to implead the Assistant Electrical
Engineer, Electricity Supply Power Division, Garhani as
Opposite Party No.2 in course of the day.

3. The petitioner apprehends his arrest in connection
with Charpokhari P.S. Case No. 46 of 2024 registered under
Section 135 of the Electricity Act, 2003.

4. As per the allegation made in the FIR, in course of



inspection, the petitioner was found to be illegally trapping electricity.

5. Mr. Pravin Kumar, along with Ms. Kritika Upadhaya, learned counsels appearing on behalf of the petitioner submitted that petitioner is innocent and he has falsely been implicated in the present case. Learned counsel further submitted that the offence has been alleged against the petitioner is compoundable under the provision of Section 152 of the Indian Electricity Act, 2003 and the petitioner seeks to compound in accordance with the said provision.

6. Mr. Akhileshwar Singh, learned counsel tendered his appearance on behalf of the Opposite Party No.2(Informant) and has no objection to the offer given on behalf of the petitioner.

7. Having considered the rival submissions made on behalf of the parties, as well as, the nature of allegation alleged against the petitioner is compoundable and the petitioner seeks to avail remedy in accordance with the provision of Section 152 of the Indian Electricity Act, 2003 before the appropriate authority, I find it proper that the petitioner may approach the concerned authority and file his objection, who is required to assess the loss caused by the petitioner and after calculating the



loss, the petitioner is required to be served a copy of the calculation chart made in accordance with the provision of the Act, on or before 11.09.2024 and the petitioner, thereafter, is required to produce a copy of receipt of payment before the learned District Court and after having fulfilled the above condition the petitioner is directed to enlarge the petitioner on pre-arrest bail to the satisfaction of learned Chief Judicial Magistrate, Bhojpur, Ara in connection with Charpokhari P.S. Case No. 46 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. It is made clear that the above condition has been imposed by this Court, considering the fact that the informant has agreed to act upon, once the petitioner files his application for compounding of the offence and I have not passed any order quantifying the quantum of loss in any manner and the bar of this Court in respect of making payment or with respect to pre-arrest bail in no manner will be subject to above condition in light of observation made by the Apex Court in paragraphs no. 9, 10 and 11 in case of ***Bimla Tiwari vs. State of Bihar & Ors.*** passed in ***SLP (Crl.) Nos. 834-835 of 2023***, which are, **inter alia, reproduced hereinafter :**

“9. We have indicated on more than one occasion that the process of criminal law, particularly in matters of grant of bail, is



not akin to money recovery proceedings but what has been noticed in the present case carries the peculiarities of its own.

10. We would reiterate that the process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing the prayer for bail. The question as to whether pre-arrest bail, or for that matter regular bail, in a given case is to be granted or not is required to be examined and the discretion is required to be exercised by the Court with reference to the material on record and the parameters governing bail considerations. Putting it in other words, in a given case, the concession of pre-arrest bail or regular bail could be declined even if the accused has made payment of the money involved or offers to make any payment; conversely, in a given case, the concession of pre-arrest bail or regular bail could be granted irrespective of any payment or any offer of payment.

11. We would further emphasize that, ordinarily, there is no justification in adopting such a course that for the purpose of being given the concession of pre-arrest bail, the person apprehending arrest ought to make payment. Recovery of money is essentially within the realm of civil proceedings.”

9. The learned District Court is directed to verify the criminal antecedent of the petitioner, as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner, as what has been stated in paragraph no. 3, this order will lose its force automatically.

10. In the meantime, no coercive steps shall be taken against the petitioner in connection with aforesaid case.

11. Accordingly, the present pre-arrest bail application stands disposed of.

(Purnendu Singh, J.)

Ashishsingh/-

U		T	
---	--	---	--

