

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2130 OF 2024

Suresh Dnyaneshwar Pawar	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Mayuresh Ingale a/w Mr. Abhishek Salian for the Applicant.
Mr. Balraj B. Kulkarni, APP for Respondent-State.
Mr. S. M. Lande, Head Constable, Khed Police Station, Pune.

**CORAM: MANISH PITALE, J.
DATE : 20th AUGUST 2024**

P.C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0421 of 2024 dated 4th July 2024 registered at Khed Police Station, Dist. Pune, for offence under Section 135 of the Electricity Act, 2003 (for short 'the said Act').

3. The FIR is lodged at the behest of Deputy Executive Engineer of the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL). It is alleged that when the inspection of the premises of the applicant was carried out on 21st May 2024, it came to light that there was theft of electricity as the electric meter had been bypassed. It was alleged that electricity theft to the extent of Rs.34,07,800/- had taken place. On the basis of the

statement of the aforesaid informant, the FIR came to be registered.

4. The learned counsel for the applicant submits that in the present case, as regards the assessment carried out under Section 126 of the said Act, the applicant has his own remedies. But, in the present case, mandatory provision i.e. Section 135(1A) of the said Act has been violated, thereby creating serious doubt about the very registration of the FIR against the applicant. It is submitted that since supply of the electricity continued even after 21st May 2024, for which bill was also raised by the MSEDCL, coupled with the fact that the physical custody of the applicant may not be necessary, this Court may allow the present application.

5. On the other hand, the learned APP submits that when assessment proceedings were carried out, it was revealed on inspection that electric meter was bypassed and serious offence had been committed and a strong *prima facie* case is made out about theft of electricity. Hence, this Court may not show indulgence to the applicant.

6. This Court has perused the statement of the informant, leading to registration of the FIR. Even, as per the statement, the inspection took place on 21st May 2024, wherein it was found that the electric meter had been bypassed and there was theft of electricity to the aforesaid extent. The FIR was registered on 4th July 2024.

7. A perusal of Section 135(1A) of the said Act shows that upon detection of theft of electricity (in this case on 21st May 2024), the supply of electricity was to be disconnected immediately. In the present case, there is nothing to show that the electricity supply was disconnected immediately. The second proviso to Section 135(1A) of the said Act, stipulates that the competent officer of the MSEDCL must lodge a complaint in writing, relating to commission of such an offence of theft of electricity in the Police Station having jurisdiction, within 24 hours from the time of such disconnection. It appears that in the present case, the FIR may have been lodged within 24 hours of disconnection of electricity supply, but *prima facie* it appears that electricity supply was not disconnected immediately upon alleged detection of theft of electricity. To that extent there is substance in the contention raised on behalf of the applicant, making out a *prima facie* case in his favour.

8. Apart from this, the nature of the allegations in the present case and the material relevant for investigation appears to be of documentary nature and in that sense, physical custody of the applicant may not be required. Therefore, this Court is inclined to allow the present application.

9. In view of the above, the application is allowed in the following terms :

(a) In the event the applicant is arrested in connection with

FIR No. 0421 of 2024 dated 4th July 2024 registered at Khed Police Station, Dist. Pune, he shall be released on bail on furnishing PR Bond of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

- (b) The applicant shall cooperate with investigation, including producing all relevant documents before the Investigating Officer.
- (c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application.

11. The application is disposed of.

MANISH PITALE, J.