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2024:PHHC:040784

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37546-2018
DECIDED ON: 20.03.2024

VISHAL MUNJAL

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Gagan Oberoi, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 482 Cr.P.C., has been invoked for setting aside/modification of the order dated 02.08.2018 (Annexure P-4) passed by Additional Sessions Judge, Ludhiana in FIR No. 710, dated 06.07.2018, under Section 135 of Electricity Act, 2003, vide which a direction was issued to deposit 50% of the disputed amount.

2. The petitioner is running manufacturing unit of Knitting in the name and style of M/s Vishal Enterprises at Ramgarh, Sahnewal Road, Ludhiana and PSPCL were supplying electricity to the petitioner at the said address. The allegations against the petitioner are that he has tampered with terminal block of meter. As per report dated 26.07.2018, the meter was tampered by placing one number copper wire in the incoming and outgoing terminal of all three phases i.e.

Red Phase, Yellow Phase and Blue Phase of meter and it is short (direct). Upon checking the meter was found 76.63% slow.

3. From the perusal of impugned order dated 02.08.2018, it appears that though the petitioner has been granted the concession of pre-arrest bail but subject to deposit of 50% of the disputed amount with the department.

4. It has been argued on behalf of the petitioner that there is no provision under the Electricity Act, 2003 (hereinafter referred to as 'Act'), which mandates the deposit of 50% of the assessment amount for granting pre-arrest bail to the offender. However, as per Section 127 of the Act, the offender is under the obligation to deposit 50% of the disputed amount only at the time of filing appeal against the order of final assessment and in the present case, the final order has not been passed. Thus, the order dated 02.08.2018 passed by learned trial Court is not sustainable in the eyes of law.

5. Reliance has been placed upon the judicial pronouncement of the Apex Court rendered in the case of ***“Bimla Tiwari vs. State of Bihar & Others”, 2023 (1) RCR (Criminal) 773***; wherein, it has been held that 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. It has been further held that the recovery of money is essentially within the realm of civil proceedings.

6. Learned counsel for the petitioner further submits that the case of the petitioner is squarely covered under the guidelines laid down by the Apex Court in ***Bimla Tiwari's case (supra)***.

7. Learned State counsel has not controverted the afore-said fact.

8. In the light of the afore-said judicial pronouncement, this Court is fully convinced that the condition to deposit 50% of the disputed amount is illegal and no justifiable reason has been mentioned by learned trial Court in adopting such a course. Accordingly, this Court is inclined to delete the requirement of payment of 50% of the disputed amount. Hence, the order granting pre-arrest bail to the petitioner stands affirmed but, the condition therein, of deposit of 50% of the disputed amount by the petitioner, stands annulled.

9. In view of the afore-said terms, the present petition stands disposed off.

20.03.2024

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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>