

Special Case No. 168 of 2024

State of Maharashtra

Vs.

Shaikh Kalim Shaikh Salim

ORDER BELOW EXH. 3

[1] Accused - **Shaikh Kalim Shaikh Salim** has filed this application for grant of **bail** under Section **483** of the Bhartiya Nagarik Suraksha Sanhita.

Brief facts of the prosecution case are as under :-

[2] On 29.08.2024 at about 11.28 a.m., informant – Sanidhya Ravindra Zha, C.E.O. of Malegaon Power Supply Company Ltd., along-with other officers of the said Company, effected raid at the Plastic Factory of the accused situated at Gat No. 163/4 at Mhalde, Tal. Malegaon. At that time, on inspection it was found that the accused and his associates were running Plastic Industry and they were using electric load of 15152 Watt in the said factory directly from the electric police without having electric meter. Then, the informant and his officials seized wire etc., and it was found that electricity of approximate Rs.10,86,000/- was stolen by the accused and his associates.

[3] The informant lodged FIR. Accordingly, Crime vide C.R.No.I-473/2024 came to be registered. The accused came to be arrested on **01.10.2024**. Now, he is in Judicial custody. Therefore, he has filed this application for grant of **bail**.

[4] I have heard both the sides and perused the material placed on the record.

[5] Learned Advocate for the accused submitted that the accused has been falsely implicated in this crime. There is no *prima facie* material to show that the said Plastic Factory was owned by the accused. The informant has not mentioned the details how he came to the conclusion that the accused had stolen electricity of Rs.10,86,000/-. He has exaggerated figures of consumption of electricity units and price thereof. Investigation of the crime is completed and charge-sheet is filed. Therefore, nothing remained to be discovered or recovered. The informant has mentioned that the accused had previously committed theft of electricity and some criminal cases were registered against him. However, there is no charge-sheet pending before any Court of Law, wherein the accused is facing trial for theft of electricity. The accused is permanent resident of Malegaon. He is ready to abide all the terms and conditions which will be imposed by the Court. On these grounds, he prayed for grant of **bail**.

[6] On the other hand, learned Advocate for the Power Supply Co. have submitted that there are circulars issued by the Chief Engineer of M.S.E.D.C.L., wherein guidelines are given for assessment of electricity charges payable in case of theft of electricity. In this case also as per the FIR, the informant has mentioned that how many electrical instruments / appliances were being used by the accused when the raid was effected. On the basis of use of said electrical instruments and appliances, the said amount of Rs.10,86,250/- was assessed. It was assessed as per the settled guidelines. There is *prima facie* material to show that in contravention of the Judgment and Order passed by Hon'ble National Green Tribunal, New Delhi, in the matter of Original Application No.359 of 2019, the accused was running Plastic Factory.

[7] Learned Advocate for the Power Supply Company further submitted that the accused is habitual offender of such crimes. He has already committed similar crimes for three times, wherein he committed theft of electricity directly from the electric police without using electric meter. He has no respect of law. Therefore, he has committed similar offences again and again. In this matter also, he has committed theft of electricity of Rs.10,86,000/-. In the circumstances, if the accused is granted bail, he will commit similar offence. Therefore, he is not deserving for grant of **bail**.

[8] So far as the merits of this matter are concerned, it appears that when the officials of the Power Supply Company effected raid at the said place, the accused and his associates were found running Plastic Factory, in contravention of the orders passed by the National Green Tribunal. Secondly, the accused was running the said Plastic Factory and he was using the electricity by putting hooks of wire, unauthorizedly from the electric police directly, without having electric meter. In this matter, he has committed theft of Rs.10,86,250/-/-.

[9] It appears that there are circulars issued by the Chief Engineer of M.S.E.D.C.L., wherein guidelines are given for assessment of electricity charges payable in case of theft of electricity. The informant has mentioned in the FIR when they effected raid at the Plastic Factory of the accused, it was found that 1 electric motor, 4 tube lights, 6 heaters and 2 fans were being used in the Factory. At that time, total load of 15152 Watts was used by the accused, unauthorizedly. On the basis of use of said electrical instruments and appliances, the said amount of Rs.10,86,250/- was assessed. In the circumstances, it cannot be said that the details of calculation of said amount of Rs.10,86,250/- has not been given by the informant.

[10] Previously, the accused has committed three similar offences of electricity. In one of the such matters of C.R.No.I –

134/2022, he committed theft of electricity energy worth of Rs.13,81,200/-. Thereafter, in the matter of C.R.No. 344 of 2022, he committed theft of electricity energy worth of Rs.3,56,555/- and in the matter of C.R.No.I-499/2024 he committed theft of electricity energy worth of Rs.80,112/-. In all these crimes, he used electricity energy for the purpose of running Plastic Factory by putting hooks directly from the electric pole without using electricity meter. It appears that all the while, the applicant was / is running Plastic Factory in contravention of the order of the Hon'ble National Green Tribunal and that too by using electricity, unauthorizedly. In the circumstances, only because charge-sheet has not been filed in the Court, it does not mean that the accused has at all not committed any such offences as alleged by the prosecution.

[11] It appears that the accused has modus-operandi that to utilize electricity unauthorisdely to the great extent and when any legal action is taken by the Authorities, he is coming before the Court and praying for permission to deposit some part of the electricity bill raised against him and thereby, he is seeking leniency from the Courts.

[12] Having regard to the above mentioned facts and circumstances of the case, I am of the opinion that if the accused is released on bail, he will commit similar offence again and commit breach of law thereby. Thus, it appears that the accused is not law-abiding citizen. Hence, in my opinion, he is not

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entitled for grant of bail. In the result, the application deserves to be rejected. I, therefore, pass the following order. :-

ORDER

Application is rejected.

(S.B. Bahalkar)
Additional Sessions Judge,
Malegaon.

Date : 19.11.2024