

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 29TH DAY OF APRIL, 2020 /9TH VAISAKHA, 1942

BA.TMP NO. 196 OF 2020

(Crime No.120 of 2020 of Badiadka Police Station, Kasaragod District)

**Petitioner/Accused:**

B.M. Abdulla, aged 65 years,  
S/o Moideen Kunhi, Baladka House,  
Nekraje Post,Kasaragod District.671121

BY SRI.JACKSON JOHNY

**Respondents/Complainant & State:**

1. State of Kerala – Represented by Public Prosecutor,  
High Court of Kerala, Ernakulam. Pin- 682031.  
Email id : bacases2ago@gmail.com
2. The Station House Officer,  
(Crime No.120 of 2020)  
Badiadka Police Station, Kasaragod District.  
Email id : sibddkksd.pol@kerala.gov.in

BY PUBLIC PROSECUTOR **SMT PUSHPALATHA.M.K**

THIS BA HAVING COME UP FOR ADMISSION ON 29.04.2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**C. S. DIAS, J.**

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**B.A. TMP No. 196 of 2020**  
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**Dated this the 29<sup>th</sup> day of April, 2020.**

**ORDER**

This is an application for pre-arrest bail filed under Section 438 of the Code of Criminal Procedure.

2. The petitioner is the accused in Crime No.120/2020 of the Badiadka Police Station. The petitioner is alleged to have committed the offence punishable under Section 135(1)(A) of the Electricity Act.

3. The prosecution case, in brief, is that: the petitioner who is the owner of the premises, under the Cherkala Electrical Section, Kasaragod District, with a domestic electricity connection bearing Consumer No.1166893019534. On 5.2.2020, the Anti-Power Theft Squad, on inspection, found that the petitioner is unauthorisely drawing electricity, thereby causing loss of revenue to the KSEB. Thus, the petitioner has committed the above offence.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor via video-conferencing.

5. The learned counsel for the petitioner argued that the petitioner has been falsely implicated in the crime. He is absolutely

innocent of the allegations levelled against him. The non bailable offence under Section 135(1)(A) of the Electricity Act, has been incorporated only to arrest the petitioner. The petitioner has already deposited the compounding fee as evidenced by Annexure A3. Thus the custodial interrogation of the petitioner is unnecessary. Hence, the petitioner may be enlarged on bail.

6. The learned Public Prosecutor opposed the application. However, she conceded to the fact that the custodial interrogation of the petitioner is not necessary, and that the petitioner has already remitted the compounding fee as evidenced from Annexure A3.

7. On a cumulative appreciation of the facts and circumstances of the case, particularly considering the fact that the petitioner has already remitted the compounding fee; that the custodial interrogation of the petitioner is not necessary; the investigation in this case is practically complete, I am convinced that this is a fit case to grant the petitioner an order of pre-arrest bail as provided under Section 438 of Code of Criminal Procedure.

8. In the result, this bail application is allowed. The petitioner shall surrender before the Investigating Officer on or before 08.05.2020. Upon his surrender, he shall be released on bail by the Investigating Officer, subject to the following conditions:-

(i) The petitioner shall be released on bail, on executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only), with two solvent sureties for the like sum, in the event of the arrest by the Police in connection with the crime.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer, as and when required by him. The petitioner shall also co-operate with the investigation of the case.

(iii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

(iv) The petitioner shall not commit any offence while on bail.

(vi) Needless to mention that, if the petitioner violates any of the above conditions, the Investigating Officer shall be at liberty to move the jurisdictional court and file appropriate application seeking cancellation of this bail order .

With the above observations, this Bail Application  
is allowed.

**C. S. DIAS**

**JUDGE**

MMG/29.4.2020