

ORDER SHEET

Date

For hearing of bail application.

Order/process issued to trial Court for compliance of order dated 10.4.2019

10.05.2019.

Mr. Islamuddin Ayubi, advocate for the applicant along with applicant/accused.

Malik Sdaqat Ali Khan, Special Prosecutor SSGC.

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The instant bail application has been filed in respect of FIR No.50/2017 registered under Sections 15/17/24 of Gas Theft Control & Recovery Act 2016 (The Act 2016) at Police Station SSGC Karachi.

Briefly version of the FIR is that statement of the complainant Mubin Ansari, Assistant Engineer, Sui Souther Gas Company U/S 154 Cr.P.C has been recorded wherein he stated that on 14.9.2017 at 0015 hours he alongwith other staff of suit gas company and police party reached at 436 B-Road, Commercial Area, Liaquatabad, Karachi and found that on the said plot two stories were built. On first floor one plastic moulding factory in the name of New Lucky Plastic is located. On checking of the sui gas meter bearing No.20343891 it was found that through this meter a line of gas is erected with 6 star machine, 4 stoves, 12 nozzles one ward, 7 nozzles of one rod. On suspicion, the record of the said sui gas meter was enquired from the sui gas Head Office but no record of the said meter was found available in the sui gas Head Office. The meter was then checked however its reading showed zero consumption. The team then removed the meter with the help of technical staff and also disconnected the gas connection on the spot of 6 star stoves, 12 'T' shape nozzles one rod, 7 'T' shape nozzles one rod and took into custody meter bearing No.20343891. The operation Incharge enquired on the spot and came to know that the owner of the plastic molding karkhana was Qaiser Abbas S/o Khursheed Ahmed who was not available at the spot at that time and thereafter the present FIR was lodged against the accused. A bail application was preferred by the accused before the Sessions Judge, Karachi Central in

Cr.B.A. No.1012/2017 which was declined on 18.10.2017 and now the present bail application. The accused obtained pre-arrest bail on 07.12.2017, which is now fixed for confirmation or otherwise.

Mr. Islamuddin Ayubi, advocate has appeared on behalf of the applicant/accused and submitted that the applicant/accused through a contractor obtained gas connection and has twice paid Rs.6195/- in the Sui Gas account. He stated that no doubt commercial meter was installed but the applicant/accused has not utilized any gas from that meter and the sui gas staff has lodged a fake FIR against the applicant/accused. He stated that case is proceeding before the trial court and an interim bail was granted to the applicant on 07.12.2017 by this Court, which may be confirmed.

Malik Sadaquat Ali Khan, Special Prosecutor has appeared on behalf of SSGC and has stated that the accused has installed a fake meter and on a complaint concerned officials of gas department inspected the site, as the accused is running a plastic molding factory. From the said commercial meter a connection was detected supplying gas to 6 star machine, 4 stoves/chulay, 12 Nozzles one rod, 7 nozzles one rod. He stated that from the above meter the above noted equipments were found connected but the meter reading was zero. He stated that thereafter with the help of the technical staff meter was removed and gas supply to the equipments was disconnected. He stated that accused is liable to pay more than Rs.7 lac due to the gas theft. He further stated that before the trial court the accused has admitted his guilt and also prayed for payment of gas bill in instalments. He therefore stated that in view of the facts, the accused is not entitled for bail as offence committed by him is not bailable. He has lastly prayed that bail of the accused may not be confirmed.

I have heard the applicant/accused and his counsel as well as Special Prosecutor SSGC and have perused the record.

I specifically asked a question from the accused as well as his counsel that whether connection was given from the commercial meter for their use to which they replied in affirmative. I then asked from the accused that if gas was being consumed by him commercially and for

arguments' sake it is assumed that the consumption was quite negligible how come the meter showed reading as zero. No plausible explanation is available with the accused who is present before me or his counsel that if the gas was being consumed even if in low quantity, as averred by them, there has to be some reading on the meter. The accused stated that it was his contractor, namely, Iftikhar who installed a faulty meter and he was not aware about it. It is strange to note that the accused was admittedly consuming the gas commercially as a number of equipments impounded by the Sui Gas staff were found to be installed in the line through the meter but the accused made no effort to enquire or make a complaint to the SSGC about the faulty meter, if any, and that he had no knowledge about the reading of the meter which showed the reading as zero but kept on consuming the gas for his purposes. Moreover, no allegation of enmity has been leveled against the officials of the sui gas staff who on a complaint made a search on the site and thereafter found one line of gas going to the factory from the said meter with 6 star machine, 4 stoves/chulay, 12 Nozzles one rod, 7 nozzles one rod connected with the meter. It is noted that the applicant/accused has tried to shift his entire burden upon his contractor namely, Iftikhar for erecting faulty meter which requires thorough investigation and inquiry into the matter, which is to be done at the trial stage as no deeper examination of the facts, as narrated by the accused, at this juncture are warranted. I, therefore in view of the facts and circumstances of the case and on perusal of the Sections 5(2) 5(2), 15. 17. 24 of Gas Theft Control & Recovery Act 2016 have found that the applicant/accused has miserably failed to make out a case of confirmation of bail. The ad-interim pre-arrest bail granted to the applicant/accused on 07.12.2017, therefore, is hereby recalled and this Cr. Bail Application stands dismissed accordingly.

Needless to state that the observations made above are only tentative in nature and should not prejudice the case of the accused at trial Court stage.

JUDGE