

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 65 of 2018

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application.

20.11.2018

Mr. Maroof Hussain Hashmi, Advocate a/w applicant.
Malik Sadaqat Awan, Special Prosecutor SSGC,

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Tahir Ali has sought pre-arrest bail in crime number 60 of 2017 registered under sections 15, 17 and 24 of the Gas Theft (Control & Recovery) Act, 2016 at the SSGC police station in Karachi. Earlier, his pre-arrest bail application was dismissed by the learned District and Sessions Judge, Karachi, Central on 18-11-2017.

2. Brief facts of the case are that a party of SSGC conducted a raid on a hotel by the name of Zaiqa Till Lado and discovered that gas was being stolen through an illegal diversion from the auxiliary gas pipeline. The afore-mentioned case was registered against the applicant on the ground that he was the owner of the said property where the stolen gas was being used.

3. The learned counsel for the applicant has argued that the applicant has nothing to do with the premises where the theft was discovered and that the applicant has been implicated in this case solely due to the malafide of SSGC, as SSGC wanted to show its efficiency to its higher ups and that it has let the real culprits go scot free. The learned prosecutor for SSGC has primarily based his argument around the premise that the applicant was caught stealing gas and that theft of gas is against the national interest hence no leniency should be shown to the applicant. It is alleged by SSGC that there are dues of Rs. 367,000 on the actual meter which was installed on the premises and that the applicant at an earlier date had agreed to pay the dues. It is this statement of the applicant that SSGC relies on in support of its argument that it is the applicant who is the culprit.

4. I have heard the learned counsel for the applicant as well as the learned prosecutor for SSGC and have examined the record with their able assistance. My observations are as follows.

(a) There is no evidence on record at this stage to show the nexus of the applicant with the property where the theft was discovered. Further, no record of the

person in whose name the main gas meter was installed on the premises has still been brought on record. I find this strange because SSGC records should adequately reveal as to who applied for the gas meter on the premises and in whose name was the meter installed. The police has failed to record the statement of any person who would be witness to show that the applicant indeed was the person who had been running the Zaiqa Till Lado establishment. SSGC's reliance on a statement made by the applicant to the police in which he ostensibly agreed to pay the outstanding dues is not sufficient at this stage to establish his nexus with the theft. The evidentiary value of such a statement in light of Article 38 of the Qanun-e-Shahadat Order, 1984 will also have to be examined at trial. Admittedly, the applicant was not present on the spot when the raid was conducted. No independent witness has been cited in the memo of recovery that the SSGC team prepared ostensibly not on the spot but in the police station. At this preliminary stage and upon a tentative assessment of the material that has been placed before me.

- (b) I tend to agree with the learned Special Prosecutor SSGC that the theft of gas is a crime against the nation at large, yet, this fact alone cannot overshadow the responsibility of the investigating agency to conduct investigation in a comprehensive and complete manner.

5. Above are the reasons for the short order of 5-11-2018 in terms of which the interim pre-arrest bail granted to the applicant on 16-1-2018 was confirmed on the same terms and conditions. The applicant is however directed to cooperate fully with the investigating agency failing which the concession of bail may be withdrawn.

JUDGE