

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO. 2024 OF 2016
WITH
CRIMINAL APPLICATION NO.29 OF 2017**

Leon James Parera .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr.Tariq Khan, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent – State.

Mr.Niranjan Mundargi, Mr. Hiren Kamt, Ms.Vaishali Maniar i/b.

Mr.B.K.Rathod, Advocate for the Intervener.

API Gavde, Rabale MIDC Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JULY 25, 2017.

P.C. :

This is an application seeking relief under Section 438 of Cr.P.C. The offence is registered with Rabale MIDC Police Station, Navi Mumbai vide C.R.No.294 of 2016, for the offences punishable under Sections 420 and 408 of IPC read with Sections 66(b) and 43(a) of the Information Technology Act, 2000.

2 The prosecution case is that in the year 1995, the complaint Shri Bagade, Shri Yotre and James parera started

company namely M/s. Casek Equipments Private Limited at Sakinaka, Mumbai. The company was in business of manufacturing machines which were required by chemical and medicine companies. Complainant, Sunil Shinde, James Parera incorporated the company registered in the name of M/s.Promas process Machinery and System. The name was changed to Promas Engineering Pvt. Ltd. Shri Sunil Shinde was removed from the directorship of the company. The wife of complainant Mr.James Parera and his wife Mrs.Mary Magdeline Parera were directors of the company. The applicant used to visit the office of company. He is the son of James Parera. The applicant was inducted as director. After removal of Sunil Shinde, the applicant continued to be Directors. Applicant was made incharge of marketing division. The complainant came to know that since January 2014, the business of company was not as per expectations and was going down. After inquiry, it was learnt that two companies for whom they used to get business are now working with M/s.Aquan Engeening, Kurla West, Mumbai and after inquiry of the said website it was learnt that the applicant is the proprietor of the said company. It was also learnt that the applicant has given his designs and machinery ideas to the other company by using the complainant's system from the company's

network server. This fact came to the knowledge of the complainant through one of his employee. The applicant who had taken all the details of the design of the machines, list of companies, list of drugs used by the company along with other details in his Appeal company's laptop and black coloured hard disk by loading it and taken with himself in March 2015. The applicant-accused used the show the material in the exhibition at Goregaon. In view of the above, the FIR was lodged with the aforesaid police station on 19th September, 2016.

3 The applicant preferred an application for anticipatory bail before the Sessions Court which was rejected. The application, therefore, preferred the present application. This Court vide order dated 24th November, 2016 observed that there is substantial recovery from the applicant as regards the laptop, pen drive, hard disk etc., interim protection was, therefore, granted to the applicant. In pursuant to the order dated 24th November, 2016, the application was adjourned to 12th January, 2017. By order dated 27th June, 2017, it was recorded that the applicant has not co-operated with the investigating, as submitted by the prosecution. The submissions advanced by learned APP that the laptop and hard disk are yet to be recovered from the

applicant. Learned advocate for the applicant submitted that he has been falsely implicated in this crime. The applicant has co-operated with the investigation. The parents of the applicant are still Directors of the complainant's company. It is further submitted that on several occasions the applicant has attended the police station. The statement of the applicant has been recorded by the police. It is submitted that the Mac-book of Apple company and the hard disk are already recovered. The statements of the witnesses have referred to Apple company Laptop and therefore the police is insisting upon the handing over of the laptop of Apple company. It is submitted that the applicant was having a Mac-book of the Apple company which has already in possession of the investigating officer. It is submitted that the statement of the H.R. of the company has been recorded which has explained the details which are required by the investigating machinery. It is, therefore, submitted that the custodial interrogation of the applicant is not necessary and he may be granted anticipatory bail.

4 Learned APP opposed the application for bail.

5 It is submitted that the applicant is not cooperating

with the investigation. The Laptop of Apple Company is still to be recovered. The Mac-book which is recovered from the applicant has been forwarded to the Forensic Expert for its opinion. It is submitted that the applicant is giving evasive answers and misleading the investigating authority. He is refusing to hand over the password of the E-mail ID of the company. Learned advocate for the intervener also strongly opposed the grant of anticipatory bail. It is submitted that the data which was stolen by the accused has been misused, which has resulted into huge losses to the complainant's company. It is submitted that the applicant is not being cooperating with the investigating agency inspite of grant of interim protection to him. He placed reliance upon the Judgment of Punjab and Haryana High Court delivered in the case of ***Abhinav Gupta Vs. State of Hariyana***¹. In the said decision, it has been observed that custodial interrogation of the Accused is necessary to elicit, how and in what manner and for what purpose the confidential trade secrets were stolen by down loading and the investigating officer cannot be expected to be conversant with such technicalities or higher-technicalities. In the said application the anticipatory bail application was rejected.

1 2008 CRI.L.J.4536

6 I have perused the documents on record and the earlier order passed by this Court. It is a matter of record that hard disk and pen drive as well as Mac-book of the Apple Company has already been recovered and is in possession of the investigating authority. The parents of the applicant are Directors of the said company. The applicant was granted interim protection and he has attended the police station from time to time. Statement of the applicant was also recorded. The H.R. of the company was also interrogated by the police. In the circumstances, I do not think that there is any necessity of custodial interrogation of the applicant. The application is, therefore, deserves to be allowed.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.2024 of 2016 is allowed;
- (ii) In the event of arrest of the applicant in connection with C.R.No.294 of 2016, registered with Rabale MIDC Police Station, Navi Mumbai the applicant may be released

on bail on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or more sureties in the like amount;

- (iii) The applicant is directed to report Rabale MIDC Police Station as and when called for;
- (iv) Anticipatory Bail Application No.2024 of 2016 and Criminal Application No.29 of 2017 stand disposed of accordingly.

(PRAKASH D. NAIK, J.)