

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.101

CRM-M No.15 of 2017

Date of decision: 02.02.2017

Ashish Kumar and others

....Petitioners

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Arvind Singh, Advocate
for the petitioners.

Mr. Neeraj Yadav, AAG, Punjab.

Mr. ADS Sukhija, Advocate
for the complainant.

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DEEPAK SIBAL, J. (Oral)

The petitioners, who are three in number have filed a joint petition under Section 438 of the Code of Criminal Procedure, 1973, for the grant of concession of anticipatory bail in FIR No.213, dated 11.12.2016, registered under Sections 420, 34 IPC, at Police Station Phase I, SAS Nagar, Mohali, District SAS Nagar, Mohali.

As per the FIR, the petitioners who are technical hands, were serving Galactic Infotec Solutions Private Limited (for short the 'Company') which was developing software for its clients which included Vodafone India Limited. On complaint made to the Company by Vodafone India Limited with regard to wrongful activation of VAS

services on some vodafone customers, the Company set up a monitoring team to investigate its employees in order to find out as to where and who were indulging in such irregularities. Such investigation at the Company's end resulted in collection of data through which it was revealed that employees of the company, including the petitioners, by adopting illegal and unwarranted procedures and by using the infrastructure of the Company were having their own set of customers which they were servicing without the knowledge and consent of the Company. Such services being given by them, at the time of lodging of the FIR, had caused a loss of about ₹ 50 lacs to the Company and since only part investigation had taken place, the Company was of the opinion that the final loss to the Company to have been caused by the petitioners and their co-accused would be not less than ₹ 5 crores. The petitioners and their co-accused were also found to have incorporated a new Company to enjoy the fruits of the losses caused by them. One such company is named in the FIR as Fly VAS Infotech Private Limited in which petitioners Manoj Kadyan and Ashish Jindal are Directors. Petitioner Sampad Neogi was found to have helped co-accused Sunil Mehendiratta, who was a Director in a competitor Company-Jmvas Telecommunication Private Limited. The FIR further goes on to allege that the criminal intention on the part of the petitioners was clearly exposed through the internal investigation done by the Company as the same revealed that after indulging in the above illegal acts, the petitioners and their co-accused had even tried to destroy all the evidence by deleting the files/logs and had been indulging in their illegal acts by using a different

user name.

Learned counsel for the complainant submits that the report on the basis of investigation done by the Company, the relevant data and the invoices arranged by the petitioners and their co-accused to different companies to sell them software by using infrastucture and resources of the Company have been provided to the Investigating Agency.

Learned counsel for the petitioners submits that the above acts complained in the FIR were done by the petitioners at the behest of their superior-Rohit Bhayana, who has got lodged the complaint on behalf of the Company; there is no document to show that the company of which two of the petitioners namely Manoj Kadyan and Ashish Jindal are Directors have transacted any business and that no recovery is to be effected from petitioners as they have already submitted their laptops to the Investigating Agency.

I have considered the allegations raised in the FIR, submissions of learned counsel for the petitioners as also of learned counsel for the complainant, who appeared in Court on the date when the matter was listed and after considering the entire gamut of facts with seriousness that they deserve, I am of the opinion that the petitioners are not entitled to be granted the concession of anticipatory bail.

The allegations against the petitioners are serious. The petitioners have virtually admitted the acts complained of in the FIR but have raised a defence that such acts were at the behest of one Rohit Bhayana, their superior. Whether that was so, is something which would need to be investigated especially in the light of the fact that two of the

petitioners are Directors in a newly incorporated Company incorporated doing the same business as the complainant Company. Whether the Company in which two of the petitioners are Directors has transacted any business or not would also have to be probed. The money trail, if any, has also to be established. Whether some instrument other than the laptop was used is also to be probed. Whether any other employee was involved and the extent of loss has to be gone into. The number of customers being privately served by the petitioners needs to be established. The entire matter is highly technical.

In view of the above in my opinion, to unravel the entire truth, custodial interrogation of the petitioners would be necessary.

Resultantly, the present petition is dismissed.

Nothing observed herein above shall be considered to be an expression of opinion by this Court on the merits of the case.

(DEEPAK SIBAL)
JUDGE

February 02, 2017
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(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No