

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.259 OF 2019

Mohit Yadav S/o. Virender Singh] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.250 OF 2019

Dileep Lokuram Dharma] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Shailendra Kanetkar, Advocate for the Applicant in ABA No.259/19.

Mr. B.V. Mahadik with Mr. G.A. Uzalwar i/b Mahadik and Associates, Advocate for the Applicant in ABA No.250/19.

Ms. Dhanashree Wadpalliwar, Advocate for the Intervener in ABA No.250/19.

Ms. S.S. Kaushik, APP for the State/Respondent.

PI Ajay Jogdand attached to Hinjewadi Police Station, Pimpri Chinchwad present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 8th AUGUST, 2019.

P. C. :-

1. Both these applications are being decided by this common order because they arise out of the same offence.

2. The applicants in this case are apprehending their arrest in connection with C.R. No.664/2018 registered with Hinjewadi Police Station, Pune City u/sec. 408, 420 of I.P.C. and u/sec. 43 A, 43 B, 43 I, 43 G and 66 of the Information Technology Act, 2000.

3. The FIR in this case is lodged on 18/10/2018 by one Abhinav Chaturvedi who was Administrative Head working with Innoplexus Consulting Services Pvt. Ltd. (Hereinafter referred to as “the company”). The company was in the business of providing software for health care pharmaceuticals and life science space for customers. The present applicant Dileep Lokuram Dharma in ABA No.250/2019 was appointed as Product Architect in February 2016. He was promoted to the post of Vice President (Operations) in September 2017. He was provided with E-mail ID dileep.dharma@innoplexus.com. The applicant Dileep Dharma resigned from the company on 31/08/2018. While he was in the company, he was responsible for developing software products and distributing them for various customers. The company had provided full access to him of all the data base. The FIR mentions that, the applicant Dileep Dharma was responsible for company's data security. There are allegations in the

FIR that, in June 2016 one Gaurav Tripathi who was a Director learnt that, the applicant was using his personal laptop in the company. The applicant was warned about it. The applicant after his resignation from the company joined another company by the name Sama Technology Company. It is alleged that, in the period of January 2017 to August 2017, the applicant Dileep Dharma allowed the applicant Mohit Yadav in ABA No.259/2019 to use login ID and password of company software products which he was not authorised to use. It is further mentioned in the FIR that, two days prior to resigning from the company, the applicant Dileep Dharma had sent some important information from his e-mail ID provided by the company i.e. dileep.dharma@Innoplexus.com. to his personal E-mail id deileep.dharma@gmail.com. The FIR mentions that, he had sent screen shots of important details of clinical trial comparator (CTS) products of company, screen shots of CTS products, Architecture design of Isuche products, documents of ontology revision, presentation of Inopat etc. Thus, according to the first informant, the applicant had unauthorisedly transferred important information of the company to his personal account and on that basis, the FIR is lodged.

4. Heard Mr. Shailendra Kanetkar, Ld. Counsel for the Applicant in ABA No.259/19, Mr. B.V. Mahadik, Ld. Counsel for the Applicant in ABA No.250/19, Ms. Dhanashree Wadpalliwar, Ld. Counsel for the Intervener in ABA No.250/19 and Ms. S.S. Kaushik, Ld. APP for the State/Respondent.

5. Mr. B.V. Mahadik, Ld. Counsel for the Applicant Dileep Dharma submitted that, the applicant had joined the company on 16/02/2016 and because of his hard work and expertise he was promoted to the post of Vice President. In the meantime, he was granted increment which is evident from the letter dated 17/02/2017. Subsequently, for personal reasons, he wanted to leave the job and he had duly given a notice of his resignation. His notice period expired on 31/10/2018 and he was relieved on 10/09/2018. He submitted that, between September 2018 and October 2018 he made correspondence with the company asking for his arrears and thereafter the relations between him and the company became strained. He therefore submitted that, the FIR is lodged only because of this dispute. He further submitted that, whatever he had transferred from the E-mail ID of the company given to him to his personal E-mail ID, there was nothing secret about

it and such information did not cause any losses. He submitted that, he was involved in developing these particular products for processing data and he only wanted a copy of that on his C.V. for applying for jobs. He submitted that, no loss was caused to the company and the FIR is motivated and misconceived.

6. Mr. Shailendra Kanetkar, Ld. Counsel for the Applicant Mohit Yadav in ABA No.259/2019 submitted that, the applicant was not working in the company. He was given a contract to develop user interface. He has no connection with the dispute between the applicant Dileep Dharma and the company. He submitted that, for the purpose of developing user interface, he required information which was provided by the applicant Dileep Dharma and therefore no offence is committed by him.

7. Ms. Dhanashree Wadpalliwar, Ld. Counsel for the Intervener in ABA No.250/19 submitted that, the applicant Dileep Dharma transferred company's products namely clinical trial comparator (CTS), CTS products, Architecture design of Isuche products, documents of ontology revision, presentation of Inopat etc. which was the property of the informant. She submitted that, the applicant has

breached the trust reposed on him for keeping secrecy in respect of the products of the company. She therefore submitted that, the offence u/sec. 408 of I.P.C. is clearly made out.

8. Ld. APP supported the submissions of Ld. Counsel for the Intervener. She further submitted that, the investigation is being carried out and for further details the applicant's custodial interrogation is necessary.

9. I have considered all these submissions. There is some force in the submissions of Ld. Counsel for the applicant Dileep Dharma that, the FIR was lodged only after the applicant started demanding his arrears. As far as the allegations of using his personal laptop is concerned, these allegations pertain to the period of June 2016 and even thereafter he was promoted to the post of Vice President. Therefore, obviously that particular allegation was not pertaining to any breach on the part of the present applicant. The other submission is that if some files were transferred to his personal E-mail ID from Innoplexus E-mail ID, is not an offence. The prosecuting agency as well as the informant in his FIR have not spelt out as to how such transfer had caused any losses or were likely to cause losses for the

company. The applicant had worked on these products and therefore there was nothing wrong to put it on his C.V. to secure better jobs in future. Unless the company was in a position to establish that losses were caused because of his acts it is extremely doubtful as to any offence is committed by the applicant.

10. Apart from the products mentioned by the informant, the applicant himself submitted through his Ld. Counsel that he had transferred salary head details belonging to his salary books to his personal ID. Even these documents are innocuous and no offence is committed by him in respect of those documents.

11. As far as the applicant Mohit Yadav is concerned, his submissions is acceptable that, he needed the basic information for developing user interface and that did not cause any loss to the company.

12. The applicant Dharma has attended the police station as directed earlier and has produced the material which was in his possession including his laptop. However, the prosecuting agency has not made out any case for necessity of custodial interrogation of the

present applicants. There is nothing on record to show as to because of the act of the applicants, the company has actually suffered any loss. Therefore, I am inclined to grant protection of anticipatory bail to both these applicants. Hence, the following order.

ORDER

1. In the event of their arrest in connection with C.R. No.664/2018 registered with Hinjewadi Police Station, Pune City, the Applicants are directed to be released on bail on their furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.
2. Both the Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)