

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1319 OF 2019

Amit Ripu Koshal & Anr.
Versus
The State of Maharashtra

... Applicants

... Respondent

Mr. Hrishikesh Mundargi I/b Subir Sarkar, Advocate for the Applicants.
Mr. S. R. Agarkar, APP for the State.
Mr. Subodh Desai alongwith Mr. Chetal Alai, Advocates for complainant/1st informant.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 21st JUNE, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with CR no. 549/2019 registered on 11th June 2016 with Chaturshrungi Police Station, Pune under Section 406 of IPC and under Sections 43 and 66 of Information Technology Act.
2. FIR is lodged by one Raja Singh Sethi. The first informant is working with Legasis Services Pvt. Ltd. The company is involved in the business of intellectual properties and providing company secretary services. The present applicant no.1 was employed by the company on 7th November 2012 as a team leader. Initially he was working in the company's office at Delhi. In March 2013, he started working in company's office at Pune. He was

described as 'patent agent' in the FIR. He was occupying a high position in the company. The nature of his duties included, getting customers for the company, looking after their work and collecting their information. It was also his duty to recover bills from the customers. He had powers to access confidential data of the company. Applicant no. 2 was working as a junior assistant and he was reporting to the applicant no.1. He was subsequently given promotion to the post of senior assistant.

3. On 29th May 2019, the first informant came across a file on the company's laptop, which was given to one Khandelwal by the applicant no. 2. The file was concerning one company by name Photon Legal. The first informant found that some proposal was sent to the informant's company's current customers. Getting suspicious, the first informant and others inquired into this. They inquired with the present applicants. It is the case of the first informant that both of them had admitted having formed a company 'Photon Legal'. It is the case of the first informant that the applicants admitted to having contacted two of the customers of the complainant's company.

4. On further inquiry, the first informant found out that certain emails were sent by the applicant no.1 from email ID of his new company, i.e. Photon Legal. The FIR mentions seven instances in which according to the first informant, the applicant no. 1 unauthorizedly contacted the company's

customers. Based on these allegations, FIR was lodged.

4. Heard learned counsel Mr. Hrishikesh Mundargi for the applicants, Mr. Desai, learned counsel for the intervener and Mr. Agarkar, APP for the State.

5. Mr. Mundargi submitted that the reading of the entire FIR does not reflect any offence and in particular the offence under section 406 of the IPC. He submitted that the offence under section 66 read with section 43 of the Information Technology Act is bailable and therefore, the applicant could not be arrested. As against that Mr. Desai submitted that the complainant's company's database and all the names of the clients were used by the applicants and therefore offence under section 406 of the IPC is made out.

6. Considering the entire allegations in the FIR, I do not find any allegation of criminal breach of trust as defined under section 406 of the IPC is made out. There is nothing to show either of the applicants had misappropriated or converted to their own use the property of the first informant. Merely contacting the clients of the company, based on the data base of the company prima facie may not amount to the offence of criminal breach of trust. The applicant no. 1 had access to the customer base as a part of his duties. The FIR does not show as to how any loss was suffered by the informant's company. The offence under section 66 of the Information

Technology Act is bailable, therefore, at this stage the applicants deserve the protection of anticipatory bail. Hence, the order:-

ORDER

- (i) In the event of their arrest in connection with C.R. No. 549/19 registered with Chaturshrungi Police Station, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)