

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2419 OF 2022**

Rajukumar Ramashre Gupta & Ors. .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr.Omprakash Dubey for the Applicants.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

API Avhale and PSI Sudhir Korgaonkar, attached to Kasturba Marg Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 27th SEPTEMBER, 2022

P.C:-

1. When the learned A.P.P. is specifically asked as to on what basis Section 409 of IPC, which deals with the criminal breach of trust by public servant, banker, merchant or agent, is invoked, he states that since the learned Magistrate directed the case to be registered under Sections 409, 420, 506(2) of IPC, the same was registered.

Prima facie, since the case of the prosecution does not fall within the parameters of Section 409, let the applicants be served with the notice under Section 41-A of Cr.P.C., considering that the offence is under sections 420, 506(2)

read with Section 34 of IPC. Let such notice be issued within a period of three days from today. Upon receipt of notice, the applicants shall report to the concerned Investigating Officer within a period of 7 days.

Upon the applicants appearing before the Investigating Officer, he shall follow the mandate set out under Section 41A of Cr.P.C. and shall record reasons in writing, in case, he comes to the conclusion that the arrest is necessary. Before effecting the arrest for the purpose of custodial interrogation, he shall serve 72 hours notice to the applicants.

2. With the aforesaid direction, the application stands disposed off.

(SMT. BHARATI DANGRE, J.)