

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1425 OF 2023

Rajesh Vishvanath Khamitkar ...Applicant
vs.
State of Maharashtra ...Respondent

Mr. Satishkumar R. Soni for the Applicant.
Mr. S. R. Agarkar APP for the Respondent-State.
Mr. Amol Salunkhe, API, Padgha police station present.

CORAM : S. M. MODAK, J.

DATED : 27TH JULY 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State. The Investigating Officer is present.
2. There is a godown at Sumit Logistics and Industrial Park, Taluka Bhiwandi, District Thane. Kuehne Nagal company has hired that godown. In that godown products belonging to Bharati Airtel Ltd. are stored. The said company is engaged in providing internet services. The delivery was to be given at Spectrum Tower Mumbai site belonging to Bharati Airtel. At that time, it is revealed that certain products were not found at the warehouse, which were their earlier. That's how the first informant lodged the complaint on 20th

March 2023, with the Padgha police station under Section 407 of the Indian Penal Code. This Applicant is already granted interim protection as per order dated 19th May 2023.

3. Today, both sides have made several submissions including duration of the offence, whether the Applicant was there working on behalf of the company, during that duration, if “Yes”, in what capacity. Both of them relied upon various documents. The Applicant relied upon few of the emails whereas the prosecution relied upon the appointment letter and few of the witness statement.

4. During hearing, it is revealed that the offence is under Section 407 of IPC. It says about criminal breach of trust by a carrier. It is punishable upto seven years imprisonment. So the provisions of Section 41-A will come into play. So also the observations made by the Hon’ble Supreme Court in case of ***Arnesh Kumar Vs. State of Bihar and Anr***¹ will be applicable. Let the Investigating Agency satisfy itself about the exact role played by the accused in entire transaction and if they come to conclusion that arrest of the Applicant is required, they may issue him notice as per Section 41-A of the Code of Criminal Procedure. In view of above, Application is

1 Criminal Appeal No. 1277/2014 dated 02/07/2014 (SC)

disposed of.

5. The Applicant's right to again apply for anticipatory bail remain intact. In view thereof there is no need to extend the interim protection.

6. Application is disposed of accordingly.

[S. M. MODAK, J.]