Reserved on : 07.04.2025
Pronounced on : 25.04.2025

R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.8403 OF 2025 (GM-POLICE)

BETWEEN:

NEWSPACE RESEARCH AND
TECHNOLOGIES PRIVATE LIMITED
A COMPANY INCORPORATED
UNDER THE COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT
2ND FLOOR, GV TOWERS, SAHAKAR NAGAR
SANJEEVINI NAGAR,BENGALURU
KARNATAKA – 560 092
REPRESENTED BY ITS AUTHORIZED SIGNATORY
BHAVANA VIJAYKUMAR.

... PETITIONER

(BY SRI ANGAD KAMATH, ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
BY CEN POLICE STATION
NORTH EAST DIVISION
YELAHANKA, BENGALURU – 560 064.
(REPRESENTED BY HIGH COURT
GOVERNMENT PLEADER)

2 . THE COMMISSIONER OF POLICE
BENGALURU CITY POLICE
INFANTRY ROAD
BENGALURU – 560 001.

3 . THE DEPUTY COMMISSIONER OF POLICE
NORTH - EAST DIVISION
BENGALURU CITY POLICE
AMRUTH NAGAR MAIN ROAD
SECTOR B, AMRUTHNAGAR
BYATARAYANAPURA, BENGALURU
BYATARAYANAPURA CMC AND OG PART
KARNATAKA – 560 092.

4 . THE ASSISTANT COMMISSIONER OF POLICE
NORTH - EAST CEN CRIME POLICE STATION
HWW+CX2, NEHRU NAGAR
BENGALURU, KARNATAKA – 560 064.

... RESPONDENTS

(BY SRI RAHUL CARIAPPA K. S., AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECTION, DIRECTING THE RESPONDENTS TO CONSTITUTE A SPECIAL INVESTIGATION TEAM (SIT), HEADED BY A SENIOR IPS OFFICER OF UNIMPEACHABLE INTEGRITY AND COMPRISING DIGITAL FORENSIC EXPERTS, TO CONDUCT, SUPERVISE AND MONITOR THE INVESTIGATION IN CRIME NO. 1025/2024, REGISTERED BEFORE THE NORTH-EAST CEN CRIME POLICE STATION, BENGALURU CITY FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 66, 66(B), 66(C) OF THE INFORMATION TECHNOLOGY ACT AND SECTIONS 318(2), 318(3), AND 318(4) OF THE BHARATIYA NYAYA SANHITA FURNISHED AS ANNEXURE-C

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 07.04.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before this Court seeking a direction by issuance of a writ in the nature of mandamus to constitute a Special Investigation Team to conduct, supervise and monitor investigation in Crime No.1025 of 2024 registered for offences punishable under Sections 66, 66(B) and 66(C) of the Information Technology Act, 2000 (hereinafter referred to as 'the Act' for short) and Sections 318(2), 318(3), and 318(4) of the BNS.

2. Heard Sri Angad Kamath, learned counsel appearing for the petitioner and Sri Rahul Cariappa K.S., learned Additional Government Advocate appearing for the respondents.

3. Facts adumbrated are as follows:-

The petitioner is said to be a Company incorporated under the Companies Act, 2013. The petitioner/Company registers a complaint on 24-12-2024 alleging data theft by its former employees. This results in registration of a crime in Crime No.1025 of 2024 on 25-12-2024. Accused No.1 or the other accused were

not taken into custody despite they not being granted any bail by any competent Court. The subject petition is preferred seeking the aforesaid prayer, as also a prayer to take the accused into custody. This Court, on 25-03-2025, has passed the following order:

> "Heard Sri Angad Kamath, learned counsel appearing for petitioner and Sri Rahul Cariappa, learned Additional Government Advocate representing the respondents.
>
> This Court, on 20.03.2025, had passed the following order:
>
> > "Heard the learned counsel Sri.Angad Kamath, appearing for the petitioner.
> >
> > The petitioner is the complainant. The learned counsel for the petitioner submits that the allegation is, the accused in the crime who are four in number have are roaming free without them being arrested for custodial interrogation, notwithstanding the fact that two of the Courts i.e., the concerned Court and coordinate bench of this Court both have held that the custodial interrogation of the accused is necessary. He would take this Court through a notice formation of a team on 25/12/2024 directing arrest of the accused. The notice on the next day, gets converted to a 35(3) of BNSS notice with certain conditions.
> >
> > The learned counsel would submit that the accused were in fact arrested at Delhi, but in the light of the notice issued under Section 35(3) of BNSS, they have not appeared and infact disappeared as on date.
> >
> > The learned AGA to secure instructions as to why despite the necessity of custodial interrogation no steps are taken to take the accused into custody, and also secure instructions, as to what has become of the constitution of the committee on 25/12/2024.

> Learned counsel for the petitioner submits that the evidence also is being destroyed on certain external influence.
>
> The learned Additional Government Advocate to also secure instructions in that regard and see to that the mirror images of the phones seized are kept intact.
>
> List the matter on **25.03.2025, in the fresh matters list**."

In furtherance of the said order, it is now mentioned by the learned Additional Government Advocate that accused Nos.1 and 3 who were all along roaming free, have now been taken into custody. The crime comes to be registered on 25.12.2024, pursuant to which, a team formed from the State to apprehend accused Nos.1 and 3 travelled to Delhi, arrest them and let them off later, by a method of issuing notice, under Section 35(3) of the BNSS.

Once the arrest has happened, there can be no notice under Section 35(3) of the BNSS. Therefore, it appears to be a ruse to get over the custody by accused Nos.1 and 3. It becomes evident, as accused Nos.1 and 3 are now been taken into custody after 80 days of registration of the crime despite the fact that two Courts, the Court of Sessions and the coordinate bench of this Court, have rejected the anticipatory bail petition filed by accused Nos.1 and 3.

Therefore, it does not prima facie indicate any semblance of fairness in investigation, more so, when this Court would peruse the observations of the Court Commissioner appointed by this Court.

Therefore, list the matter on **02.04.2025** in the fresh matters list.

Papers of investigation conducted till 01.04.2025 be placed before this Court, by the next date."

Again on 02-04-2025, this Court passed the following order:

> "Sri Angad Kamath, learned counsel for petitioner submits that office objections are complied with.
>
> Heard Sri Angad Kamath, learned counsel for petitioner and Sri Rahul Cariyappa, learned Additional Government Advocate for the respondents – State.
>
> Learned counsel for petitioner submits that the petitioner has sought two prayers. The second prayer was with regard to taking of the accused into custody, which had not happened for 93 days after registration of the crime.
>
> This Court on 25.03.2025, had passed the following order:
>
> > "Heard Sri Angad Kamath, learned counsel appearing for petitioner and Sri Rahul Cariappa, learned Additional Government Advocate representing the respondents.
> >
> > This Court, on 20.03.2025, had passed the following order:
> >
> > > "Heard the learned counsel Sri.Angad Kamath, appearing for the petitioner.
> > >
> > > The petitioner is the complainant. The learned counsel for the petitioner submits that the allegation is, the accused in the crime who are four in number have are roaming free without them being arrested for custodial interrogation, notwithstanding the fact that two of the Courts i.e., the concerned Court and coordinate bench of this Court both have held that the custodial interrogation of the accused is necessary. He would take this Court through a notice formation of a team on 25/12/2024 directing arrest of the accused. The notice on the next day, gets converted to a 35(3) of BNSS notice with certain conditions.
> > >
> > > The learned counsel would submit that the accused were in fact arrested at Delhi, but in the light of the notice issued under Section 35(3) of BNSS, they have not appeared and infact disappeared as on date.

> The learned AGA to secure instructions as to why despite the necessity of custodial interrogation no steps are taken to take the accused into custody, and also secure instructions, as to what has become of the constitution of the committee on 25/12/2024.
>
> Learned counsel for the petitioner submits that the evidence also is being destroyed on certain external influence.
>
> The learned Additional Government Advocate to also secure instructions in that regard and see to that the mirror images of the phones seized are kept intact.
>
> List the matter on **25.03.2025, in the fresh matters list**."

In furtherance of the said order, it is now mentioned by the learned Additional Government Advocate that accused Nos.1 and 3 who were all along roaming free, have now been taken into custody. The crime comes to be registered on 25.12.2024, pursuant to which, a team formed from the State to apprehend accused Nos.1 and 3 travelled to Delhi, arrest them and let them off later, by a method of issuing notice, under Section 35(3) of the BNSS.

Once the arrest has happened, there can be no notice under Section 35(3) of the BNSS. Therefore, it appears to be a ruse to get over the custody by accused Nos.1 and 3. It becomes evident, as accused Nos.1 and 3 are now been taken into custody after 80 days of registration of the crime despite the fact that two Courts, the Court of Sessions and the coordinate bench of this Court, have rejected the anticipatory bail petition filed by accused Nos.1 and 3.

Therefore, it does not prima facie indicate any semblance of fairness in investigation, more so, when this Court would peruse the observations of the Court Commissioner appointed by this Court.

Therefore, list the matter on **02.04.2025** in the fresh matters list.

Papers of investigation conducted till 01.04.2025 be placed before this Court, by the next date."

It transpires that on the next day i.e., 26.03.2025, the accused has been taken into custody. Therefore, the second prayer that is sought with regard to the custody of the accused is rendered unnecessary today. In the light of the event happening, what remains is, the first prayer.

The first prayer is to constitute a Special Investigation Team to investigate into the alleged cyber crime in the case at hand.

Learned counsel for the petitioner Sri Angad Kamath, has produced material along with a memo with regard to the necessity of constitution of a Special Investigation Team in the case at hand.

Learned counsel appearing for the accused submits that he be heard in the matter.

It is trite law that an accused would not get audience in a case, where the matter is considered for transfer of investigation to any independent agency, as the Apex Court in plethora of cases has considered this issue and set the controversy to rest with regard to the audience of the accused at the time of transfer of investigation to an independent agency, unless the complainant himself would make them a party in the proceedings. The complainant has not made them a party in these proceedings and is not necessary to be heard.

Therefore, list this matter on **04.04.2025, in the fresh matters list**, to hear the State as to why the matter should not be transferred or laid before a Special Investigation Team as is sought by the petitioner.

Office is directed not to print the indication as 'non-compliance of office objections' on the cause list."

4. The second prayer that was sought, was rendered infructuous, on the score that the accused have been taken into custody for the purpose of custodial interrogation. Therefore, the issue now remains is, **"whether the prayer of the petitioner *qua* constitution of a Special Investigation Team should be granted or otherwise?"**

5. The learned counsel Sri Angad Kamath appearing for the petitioner would vehemently contend that the Investigating Officer by name one Thanvir who was to investigate into the crime in Crime No.1025 of 2024 himself forms a team and the team visits Noida to arrest accused No.1. Instead of proceeding with the investigation and custodial interrogation or otherwise, the Investigating Officer issues a notice the next day under Section 35 and 95 of the BNSS. He would submit that after the arrest, there can be no notice under Section 35 of BNSS. It is his submission that it is deliberately done to help the accused. He would take this Court through an order passed in Writ Petition No.32999 of 2024 to demonstrate that a Court Commissioner was appointed for the purpose of inspection and taking of photograph of the place of the

accused, to buttress his submission that the Police have been influenced by a Police Officer of Rajasthan and, therefore, the accused in the case at hand were not arrested, despite registration of crime 90 days ago.

5.1. The learned counsel would further contend that the coordinate Bench while rejecting the plea for anticipatory bail has also observed that accused were necessary for custodial interrogation. Even then, the accused were not taken into custody and only when this Court has passed the order, they were taken into custody. He would contend that the allegations against the accused are all complex cyber crimes, where security of the nation is at stake, as the petitioner is a Drone manufacturing Company and its former employees have stolen the know-how and have started their own Company compromising security of the nation. It is not a case of ordinary complaint and simple data theft. It is a case of cyber crime. He would urge that a Special Investigation Team be constituted as, such cyber crimes have grown in numbers and there are no technical experts to investigate into such crimes. He would, above all, contend that the very Investigating Officer is

caught red-handed receiving bribe and is placed under suspension. Therefore, the very integrity of investigation that is conducted by him is in doubt.

6. Per contra, the learned Additional Government Advocate would admit that the earlier Investigating Officer is embroiled in a crime for offences punishable under the Prevention of Corruption Act. The new Investigating Officer has taken over a week ago and there has been certain progress in the investigation. He would, therefore, submit that the Court can monitor the investigation and direct filing of the report before the concerned Court. He would seek dismissal of the petition, contending that there is no necessity to constitute a Special Investigation Team. He would, however, leave the decision to the Court.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are not in dispute. The accused, in the case at hand, being former employees of the petitioner is a matter of record. The petitioner is in the business of manufacture of Drones for the Defence. The former employees are alleged to have stolen highly sensitive proprietary data including UAV source codes, CAD designs and confidential defense technologies which can be used for potential misuse at their new employment. The petitioner has a huge clientele which all relate to national security stakeholders such as, the Indian Army, Air Force, Navy, BEL, HAL and DRDO and all contracts underlying are highly sensitive in nature. As observed hereinabove, the alleged stolen information pertains to cutting edge UAV (Unmanned Serial Vehicle), which is popularly known as Drone. When the petitioner comes to know of data theft, immediately it registers a complaint on 24-12-2024. The complaint reads as follows:

> "To Date:24-12-2024
>
> The Inspector/Station House Officer,
> CEN, Cyber Crime Police Station,
> Nehru Nagar, Yelahanka,
> Bengaluru – 560 064.
>
> Respected Sir,
>
> Subject: Report of data Theft by co-employees.

1. This report concerns a case of data theft, illegal and fraudulent acquisition of critically sensitive information by three former employees of the complainant-company (NewSpace Research and Technologies Private Limited): Mr. Prabhat Sharma [A-1], Mr. Anirudh Putsala [A-2] and Mr. Akash Patil [A-3]. The said persons conspired to steal sensitive proprietary information for the benefit of a rival firm, Lenviz Technologies Pvt. Ltd. [A-5], where they are now employed.

2. **Mr. Sharma, while serving as Vice-President, was dishonestly operating as a director of Lenviz Technologies, with his wife, Garima Sharma [A-4]. Together, they orchestrated the theft of confidential data, including source codes, CAD designs, copyrighted information and project files, Evidence reveals that Mr. Sharma abused this data to place a competing bid for the Meher Baba Swarm Drone Competition-II on behalf of Lenviz Technologies.**

3. **An IT audit of Mr. Putsala's and Mr. Patil's laptop post-resignation uncovered a separate AutoDisk Fusion 360 workspace labeled "Lenviz_Tech" revealing unauthorized use of the complainant's data. The complainant has reliably learnt from reliable sources that Mr. Putsala and Mr. Patil illegally hacked, copied and shared highly sensitive information, including source codes and prototypes, with Lenviz Technologies. The said accused persons also conspired to erase evidence pertaining to the crime.**

4. **The stolen information has been criminally abused by Lenviz Technologies to develop products strikingly similar to those of the complainant and to secure defense contracts, causing irreparable loss and damage. The accused persons have violated their employment agreement and committed offences under the Information Technology Act, 2000 and the Bharatiya Nyaya Sanhita, 2023, which includes Section 84B, Section 43 r/w Section 66, Section 66B of the IT Act, Section 63 of the**

Copyright act, 1963 and Section 61(2) r/w Section 316(2) of the BNSS, 2023.

5. The complainant requests an immediate investigation, seizure of stolen data, and confiscation of devices from the accused to prevent further misuse. Swift legal action is imperative. The offences are suspected to have been committed during their period employment i.e.,, [2.11.2020 – 2.08.2024]."

(Emphasis added)

On registration of the complaint, a crime in Crime No.1025 of 2024 comes to be registered for the afore-quoted offences. Pursuant to registration of crime, a team of officers is formed by CEN Police Station and the team travels to Noida for the purpose of arrest of accused No.1. Accused No.1 is arrested. The arrest memo reads as follows:

Date: 25-12-2024

Sub: Arresting A1 Accused Prabhat Sharma S/o Shishupal Sharma and seizing his laptop, mobile phone etc. and producing before me for further investigation.

Ref: CEN PS North East Division, Bangalore Cr.No.1025/ 2024 u/s 66, 66(B), 66(C) of IT Act and 318(2), 318 (3), 318(4) of BNS.

A case in CEN PS North East Division Yelahanka, Bangalore in Crime No.1025/2024 u/s 66, 66(B), 66(C) of IT Act and 318(2), 318(3), 318(4) of Bharatiya Nyaya Sanhita is registered for data theft of classified and sensitive nature. You are instructed to secure and arrest A1 **Prabhat Sharma S/o**

Sishupal Sharma R/O #L-58, Sector-11, Noida, Gautham Buddhanagar, Uttar Pradesh- 201 301. In above referred case, seized his personal laptop, mobile phone and other electronic devices and produce before me for further investigation.

Sd/-
Investigation Officer
Asst.Commissioner of Police
C.E.N. Police Station,
North-East Division,
Bengaluru.

01) Shree Raghu A.C.,
Police Sub-Inspector,
CEN Police Station.

02) Shree Basavanagouda Choudri
PC-14400, Police Constable,
CEN Police Station.

03) Shree Shrikant Lamani,
PC-20594 Police Constable,
CEN Police Station.

Copy to DCP North East Office."

The arrest should have led to bringing the accused to Bangalore and continued the investigation. Strangely, the Investigating Officer issues a notice under Section 35 of the BNSS. The notice reads as follows:

"To Date: 25/12/2024

Prabhat Sharma, S/o Shishupal Sharma,
#L-58, Sector-11, Noida, Gautham Buddha nagar,
Uttar Pradesh 201 301
Mobile No.8826030870

In exercise of the powers conferred under sub-section (1) of Section 41A and 91 of Cr.P.C., I hereby inform you that during the Investigation of **FIR No.1025/2024 u/s 66, 66(B), 66(C) of IT Act and 318(2), 318(3), 318(4) of Bharatiya Nyaya Sanhita** it is revealed that there are reasonable grounds to question you to ascertain facts and circumstances from you, in relation to the present investigation. Hence you are directed to appear before me at 10.30 a.m. on 26-12-2024 at CEN Police Station.

You are directed to comply with all and/or the following directions:

(a) You will not commit any offence in future.
(b) You will not tamper with the evidences in the case in any manner whatsoever.
(c) You will not make any threat, inducement, or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing, such facts to the court or to the police officer.
(d) You will appear before the Court as and when required/directed.
(e) You will join the investigation of the case as and when required and will cooperate in the investigation.
(f) You will disclose all the facts truthfully without concealing any part relevant for the purpose of investigation to reach to the right conclusion of the case.
(g) You will produce all relevant documents/material required for the purpose of investigation.
(h) You will render your full co-operation/assistance in apprehension of the accomplice.
(i) You will not allow any manner destruction of any evidence relevant for the purpose of investigation/ trial of the case.
(j) Any other conditions, which may be imposed by the investigating officer/SHO as per the facts of the case.

Failure to attend/comply with the terms of this Notice can render you liable for arrest under Section 41A(3) and (4) of CrPC.

Sd/-
Investigation Officer.
Asst. Commissioner of Police

CEN Police Station,
North-East Division,
Bengaluru.

Received: Sd/- Prabhat Sharma, 26-12-2024 18.34 Hrs."

Once the arrest has happened, it is ununderstandable as to how the Investigating Officer has issued a notice under Section 35(3) for appearance. What ought to have been custodial interrogation, leads to appearance before the Investigating Officer. It is the first needle of suspicion with regard to fake investigation being conducted in the case at hand. The petitioner then approached this Court in Writ Petition No.32999 of 2024 seeking seizure of entire material claimed to be belonging to the petitioner. A Court Commissioner is appointed. The Court Commissioner draws up his report of seizure in vivid detail. It reads as follows:

"…. …. ….

> Upon arrival at the residence of Mr.Prabhat sharma at B2/510, tower 11, silver city & sector 93, Noida U.P-210304, court commissioner technical staff member, Mr. Manoj, approached the security of the gated community to request their assistance in executing the search and seizure process. In accordance with the community visitor protocol, the security personnel Contacted the defendant's representative to inform them of the raid. However the defendants representative denied entry to Mr. Manoj and refused to allow the search to proceed. The Security personnel further informed Mr. Manoj that a Sub-inspector from Bengaluru had visited the same flat on 26th

December 2024 and reportedly seized a laptop, two mobiles ana a hard drive.

After being denied entry, the defendants representative collected Mr. Monoj's mobile number From visitor log. About ten minutes later, a Women, who claimed to be a DCP from Jaipur and the sister of the defendant's wife, called Mr. Manoj and demanded that he vacate the Premises immediately, there by Interfering with the execution of the court commissioner warrant.

Due to the denial of access and the interference from the defendant's representative, Team 2 decided to withdraw from premises. Mr. Manoj, then rejoined Team 1, which was waiting at knowledge Park – II Police Station for Police assistance to raid the defendant's office premises. The Station House officer [SHO] was briefed about the case and requested police protection and assistance for the Search and seizure process. The SHO then directed the Investigation teams to expo Mart, knowledge park-II, greater Noida, where a police team led by S.I. Sunny tomar could provide assistance with the raid. upon reaching expo Mart, the teams were accompanied by Sub-Inspector Sunny tomar and his team, and the details of the court Commissioner's Search Seizure Warrant were shared with them.

Both investigation teams, accompanied by the police led by S.I Sunny tomar, Proceeded to the seizure location at GNEC IIT Roorkee campus in knowledge Park-Ⅱ, Greater Noida.

Upon arrival we met the campus director to explain the case and the intent of the search. The Campus director Informed us that Defendant No.2 (Lenviz technologies Pvt Ltd) had vacated their office 15-20 days earlier. He further explained that the company had been involved in drone manufacturing on the campus, producing around 10-15 drones, which they took with them. Citing marketing purpose. However they never returned and office remained vacant.

When Mr. Arun Kumar k, the technical Staff for the Court Commissioner enquired for any evidence regarding the

company's Permission to Conduct research on campus, the Campus director clarified that Defendant No.2 had been allocated office space through the i-Hub Divyasampark initiative, a program owned by Mr. Dharamveer singh. The director Provided us with Mr. Singh's contact number.

Mr. Arun Kumar k then contacted Mr. Singh who confirmed that he no longer had access to the office keys, Mr. Singh Provided us with contact number of Mr. Sourav, a technical associate from-defendant No.2. and informed us that the main office of Defendant No.2 was located at I-Hub Divyasampark, IIT Roorkee ear bus Stand - in Haridwar,

Further inquiries with other individuals working at the IIT incubator campus revealed that defendant no.2's Staff were often irregular in their attendance, arriving at odd hours and typically dressed in Casual attire such as t-shirts and shorts, we gathered a written statement from one Individual who reported observing activities related to Defendant No.2.

Since the office of Defendant No.2 was locked and No representatives were present the team decided to conduct a visual inspection of the premises without entering. Through transparent glass cubicle (which was locked), we observed several used Products, unused wires and other electronic materials inside the office.

These items were identified as potential evidence similar to products used by plaintiff representative [New space technologies), who claimed that these materials had been used in manufacturing of drones. We documented these findings through Photographs and video recordings.

Later based on Suspicion raised by Mr. Arun kumar K., the technical staff for the court Commissioner regarding the locked premise of the defendant, the team was instructed to Perform a vicinity check, with permission of Campus director. During this check, the team discovered locked store room opposite Defendant No.2's office, which contained unused products and Junk. After obtaining confirmation from the Campus director to open the locked storeroom. we identified several drone

parts that appeared to be live parts used by plaintiff for drone manufacturing. these parts were Carefully documentated through Photographs and video recordings.

Plaintiff representatives confirmed the relevance of these parts to the case.

Further investigation revealed three commercial invoices from an external vendor which was the same vender used by the plaintiff. These invoices addressed to Defendant No.3 of Defendant No.2, were recognised by the plaintiff representative as significant evidence. we seized and carefully packaged these invoices. The items were placed in an evidence cover, labelled with an evidence number and sealed. The packaged evidence was duly signed by the Plaintiff representative (with a declaration of relevance), advocate representative and police witnesses to ensure proper chain of custody. The items were then entered into the inventory.

During the seizure procedure, Mr. Manoj, one of our technical staff members received continuous phone calls from individuals claiming to be a DCP from Jaipur and an ACP from Bangalore, these individuals attempted to interfere with our operation and instructed us to vacate the premises, warning of unusual circumstances. The ACP from Bengaluru specifically enquired" what are you doing with a group of 12-14 People at the raid location despite being informed by DCP Jaipur to vacate the Premises?". He further Cautioned Mr. Manoj to be careful, highlighting that the location was in UP, which prompted concerns about the camera at the locked premises is a wifi enabled camera and defendants or defendant's representatives were observing the investigation team during the raid, supporting to this our team had noticed camera light turning on during out exit which was off when we entered the location.

In response to these escalating threats and Interferences the team prioritized safety over continuing the search and decided to leave the premises.

> As a result, we were unable to conduct the Search at another address L58 Sector II, Noida, Gautam Buddha Nagar, UP -201301.
>
> It was informed to the investigation team by local individuals that Sector II does not have L-58, and the team was advised to check Sector 12. However due to the persistent interference from phone calls by individuals posing as DCP and ACP and given the heightened Safety concerns, we prioritized the safety of the Investigation team and decided to Proceed directly to airport.
>
> Please refer to the DVD Enclosed along with this report that showcases the location being locked and inaccessible at lenviz technologies, Knowledge Park II."

(Emphasis added)

A perusal at the Court Commissioner's report would indicate that he was himself threatened and influenced in scribing the report in the manner that he wanted. Nonetheless the report is submitted. The accused apply for grant of anticipatory bail. That comes to be rejected by the concerned Court on 13-01-2025 holding that custodial interrogation of the accused was necessary. This is challenged before the coordinate Bench of this Court in Criminal Petition No.695 of 2025 connected with Criminal Petition No.698 of 2025. The coordinate Bench, in great detail, rejects anticipatory bail, notwithstanding the fact that offences alleged were all punishable between 3 years to 7 years imprisonment. It becomes to

germane to notice the observations of the coordinate Bench. They read as follows:

> "…. …. ….
>
> 17. It is well settled that, while considering a bail application, Court should refrain from evaluating or undertaking detailed assessment of evidence, as the same is not a relevant consideration at the threshold stage. The Court may examine prima facie issues, including any reasonable grounds whether the accused committed an offence.
>
> **18. The allegations are that accused Nos.1 to 3, former employees of complainant's company conspired to steal sensitive information for the benefit of their current employer 'Lenviz'. The accused are alleged to have retained the confidential information obtained during their employment at the complainant's company. Accused No.1 orchestrated the theft of confidential data, including source codes, CAD designs, Copyrighted information, project files and other proprietary information. It is stated that following the resignation of accused Nos.2 and 3, an IT audit of their laptops revealed the existence of a separate Autodesk Fusion 360 workspace labeled 'Lenviz Tech'. The accused are alleged to have hacked, copied and shared highly sensitive information including source codes and original designs, with Lenviz.**
>
> **19. The complainant – NRT is said to be specialized in the development of Aerospace and defence research. Government agencies such as the Indian Army, Air Force, Navy, BEL, Hindustan Aeronautics and DRDO are said to be its clients, which emphasizes the highly sensitive nature of its business. The operations are said to be governed by stringent confidentiality and security protocols, hence, play a critical role in national security. Therefore, any unauthorized divulgence can have serious repercussions.**
>
> **20. It cannot be said that there is no prima facie case against the petitioners. Granting pre-arrest bail can**

significantly hamper the investigation, particularly in collecting useful information and uncovering concealed materials. Courts must exercise caution when granting anticipatory bail, specially in cyber economic crimes. Custodial interrogation is necessary, due to the technical nature of the crime and to reveal full extent of data theft and its concealment methods. The petitioners' actions show their ability and willingness to destroy and tamper with evidence. Preliminary findings would establish that the petitioners continued to access, retain and use proprietary information even after their resignation and demonstrates a deliberate attempt to misappropriate data for unlawful benefits, constituting a prima facie case. Granting anticipatory bail could jeopardize investigation and may frustrate the investigating agency in interrogating the accused and collecting useful information and may weaken the ability of law enforcement agencies to combat sophisticated cyber crimes.

21. For the foregoing reasons, this Court is of the considered view that the petitioners are not entitled for anticipatory bail.

Petitions are **dismissed**."

(Emphasis supplied)

The order comes to be passed on 18-03-2025. As observed hereinabove, the crime comes to be registered on 24-12-2024. The anticipatory bail sought by the accused before the Court of Sessions comes to be rejected on 13-01-2025. There were no protective orders granted. Notwithstanding the same, the accused were not taken into custody.

9. The petition filed under Section 482 of the Cr.P.C., seeking quashment of proceedings is pending but no stay is granted, not even protective orders are granted therein. It is only when this Court passed an order dated 25-03-2025, the next day the accused have been taken into custody. Though an arrest memo was drawn on 25-12-2024 that was only a ***paper arrest.*** The next day, the Investigating Officer issues Section 35(3) notice. Section 35(3) notice, is trite, would be issued only when the accused or any other person is to appear before the Investigating Officer for the purpose of examination/enquiry. If the accused had already been arrested, what should have been was custodial interrogation. But, what happens is, conversion of an arrest into Section 35(3) notice. All the aforesaid link, in the chain of events, would undoubtedly cast suspicion upon the conduct of a fair investigation at the hands of the Investigating Officer. It may be that the Investigating Officer has changed today, but that would not be a panacea to the present problem.

***EMERGING CRIME*:**

10. **The crimes over the years have emerged in different hues and forms. In this digital age where crime knows no borders and malfeasance is coded with keystrokes,** the tools of conduct of investigation of such emerging crimes must evolve. An ordinary Investigating Officer or a conventional Investigating Officer would not be so equipped with such emerging crimes to decode the labyrinth of cyber crimes. Therefore, the Investigating Officers who are also acquainted with technology or trained in digital forensics, those who can trace the invisible and pierce encryption and unearth the data buried or data theft, would be required to deal with the emerging crimes.

11. **The subject crime has the colour of a cyber espionage. It is a multi-layered crime involving nuances of defence technology and concerns of national defence. Investigations into such crimes demand not merely procedural competence, but an amalgamation of technical expertise and forensic acumen. It is a lamentable reality**

that conventional Investigating Officers who are trained for the crimes of yesterday, would undoubtedly find themselves ill-equipped to grapple with cyber crimes. Investigation of crimes of such magnitude cannot be done by the Investigating Officer who is now appointed, due to lack of technical expertise. I have no manner of doubt that an ordinary investigation would amount to miscarriage of justice. Therefore, this Court, not only finds it appropriate but imperative to constitute a Special Investigation Team, **as scales of justice must not tilt due to incompetence of Investigating Officers. If the crimes are sophisticated, the Investigating Officers too shall be**.

THE NEW AGE CRIME AND THE NEED FOR A NEW AGE INVESTIGATION:

***NECESSITY OF A PARADIGM SHIFT*:**

12. In this digital age, crime transcends frontiers with the click of a mouse. Information which is the life blood of modern civilization can be weaponized by a few keystrokes. Crimes are

thus committed by the play of keystrokes, sitting in front of a monitor. The conventional crimes like robbery, theft, breaking open the lock and stealing money have largely gone into the oblivion with the emergence of the new age crime, the cyber crime. It is in public domain that the rate of filing of charge sheet, in such new age crimes is only at 9%, not because the accused are not guilty, it is because the Investigating Officers are not equipped to bring those accused to books. This is due to lack of expertise in dealing with cyber crimes.

13. The State thus must recognize the existential threat and evolve, failing which, justice to those victims will become a mirage. It is again in public domain that the State of Karnataka recognizing the huge problem of cyber crime, has in fact come up with a novel idea of a cyber command centre, to be headed by an officer of the rank of the Director General of Police. If a cyber command centre is established to combat cyber crimes and strengthen cyber security, it would usher a new beginning of tackling the new age crime with new age investigating centres. This is the paradigm shift that is imperative. Such cyber command centres should be

made meaningfully functional by appropriate officers manning such cyber command centres. It is only then the State will leap forward to tackle the emergence and growth of cyber crime, failing which, the citizen who has been a victim of cyber crime or cyber frauds will never get justice. Therefore, the State shall endeavour to give life to the cyber command centres or constitute a separate wing to tackle cyber crime like the CCB, which could be a cyber crime investigation bureau. The aforesaid direction has become imperative for the reasons indicated hereinabove. Such Investigating Agency will be a pioneer in the new age crime by a new age investigative branch.

14. The aforesaid direction should not remain only on paper or become a paper direction. Thus, it would not be appropriate to close the present proceeding, but instead a concept of continuing mandamus would be necessary. Thus the State shall place before this Court, the report of investigation of the Special Investigation Team, on its completion and also place the developments in complying with the directions at paragraph No.13 *supra*.

15. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petition is allowed.

(ii) Crime in Crime No.1025 of 2024 shall now be reinvestigated by a Special Investigation Team comprising of:

1. **Sri Pranab Mohanty – IPS, Director General of Police, who shall head the Team.**
2. **Sri Bhushan Gulab Rao Borase – IPS**
3. **Smt. Nisha James – IPS**

(iii) *Mandamus* issues to the 1st respondent/State Government to forthwith hand over the investigation to the Special Investigation Team aforesaid.

(iv) The Investigating Officer shall transmit the entire papers of investigation, if any, conducted to the said Special Investigation Team.

(v) The Special Investigation Team so constituted shall submit its report within 3 months, from the date it is constituted, and a copy of the same be placed before this Court thereafter.

(vi) Copy of this order shall be furnished to, the Chief Secretary, Government of Karnataka; the Principal Secretary, Department of Home Affairs; the Director General and Inspector General of Police, Government of Karnataka, for the implementation of paragraph No.13 of the order.

(vii) The steps taken towards the implementation of the clause (vi) *supra*, shall from time to time be placed before the Court.

(viii) List this matter on **02.07.2025 at 2.30 p.m., for further hearing.**

SD/-
(M.NAGAPRASANNA)
JUDGE

bkp
CT:SS