



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION NO. 695 OF 2025

(438(Cr.PC) / 482(BNSS))

C/W

CRIMINAL PETITION NO. 698 OF 2025

(438(Cr.PC) / 482(BNSS))

IN CRL.P No. 695/2025

BETWEEN:

PRABHAT SHARMA
S/O SHISHU PAL SHARMA,
AGED ABOUT 48 YEARS,
RESIDING AT #L-58,
SECTOR-11, NOIDA,
GAUTHAM BUDDHA NAGAR,
UTTAR PRADESH-201 301.

...PETITIONER

(BY SRI. SUNDARA RAMAN M.V., ADVOCATE)

AND:

STATE OF KARNATAKA BY
CEN POLICE STATION,
NORTH-EAST DIVISION,
YELAHANKA, BENGALURU CITY
REP BY: STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
DR. AMBEDKAR VEEDHI,
BANGALORE- 560 001.

...RESPONDENT

(BY MS. ASMA KOUSER, ADDL. SPP;
SRI. ANGAD KAMATH, MS. SLOKA B., SRI. SUYOG SATHYA,
ADVOCATES FOR DEFACTO COMPLAINANT)





NC: 2025:KHC:11059
CRL.P No. 695 of 2025
C/W CRL.P No. 698 of 2025

THIS CRL.P IS FILED U/S 438 CR.PC (FILED U/S 482 BNSS) PRAYING TO GRANT THE PETITIONER ANTICIPATORY BAIL IN RELATION TO CRIME NO.1025/2024 FOR THE OFFENCES U/S 66, 66(B), 66(C) OF THE INFORMATION TECHNOLOGY ACT, 2008 ALONG WITH SECTION 318(2), 318(3) AND 318(4) OF BHARATIYA NYAYA SANHITA, 2023, REGISTERED BY CEN POLICE STATION, NORTH-EAST DIVISION, BENGALURU AND PENDING ON THE FILE OF THE 45TH A.C.M.M., BENGALURU.

IN CRL.P NO. 698/2025

BETWEEN:

AKASH M. PATIL
S/O MADHUKAR PATIL,
AGED ABOUT 32 YEARS,
RESIDING AT NO.104, 'B' BLOCK,
NEW INDIA TANZANITE,
KOGILU LAYOUT, YELAHANKA,
BENGALURU-560 064.

...PETITIONER

(BY SRI. SUNDARA RAMAN M.V., ADVOCATE)

AND:

STATE OF KARNATAKA BY
CEN POLICE STATION,
NORTH-EAST DIVISION,
YELAHANKA, BENGALURU CITY
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
DR. AMBEDKAR VEEDHI,
BANGALORE- 560 001.

...RESPONDENT

(BY MS. ASMA KOUSER, ADDL. SPP;
SRI. ANGAD KAMATH, MS. SLOKA B., SRI. SUYOG SATHYA,
ADVOCATES FOR DEFACTO COMPLAINANT)

THIS CRL.P IS FILED U/S 438 CR.PC (FILED U/S 482 BNSS) PRAYING TO GRANT THE PETITIONER ANTICIPATORY BAIL IN RELATION TO CRIME NO.1025/2024 FOR THE



OFFENCES U/S 66, 66(B), 66(C) OF THE INFORMATION TECHNOLOGY ACT, 2008 ALONG WITH SECTION 318(2), 318(3) AND 318(4) OF BHARATIYA NYAYA SANHITA, 2023, REGISTERED BY CEN POLICE STATION, NORTH-EAST DIVISION, BENGALURU AND PENDING ON THE FILE OF THE 45TH A.C.M.M., BENGALURU.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS, THIS DAY, PRONOUNCED THE FOLLOWING:

DATE OF RESERVED THE ORDER : 14.02.2025

DATE OF PRONOUNCEMENT OF THE ORDER : 18.03.2025

CORAM: HON'BLE MR JUSTICE MOHAMMAD NAWAZ

CAV ORDER

These petitions are filed by accused Nos.1 and 3 seeking anticipatory bail in Cr.No.1025/2024 registered at North East CEN Crime Police Station, for offences punishable under Section 66(B), 66(C) of Information Technology Act, 2000 (for short 'IT Act') and under Section 318(2) (3) (4) of BNS, 2023.

2. Brief facts of the case are:

A complaint was lodged on 25.12.2024 by one Sameer Joshi, CEO of NewSpace Research and Technologies Pvt. Ltd. (for short 'NRT') alleging that



accused Nos. 1, 2, and 3, who were former employees of complainant's company conspired to steal sensitive information for the benefit of their current employer, Lenviz Technologies Pvt. Ltd. (for short 'Lenviz'). Accused No.1, who held the position of Vice President at the complainant's company, is accused of operating dishonestly as a Director of Lenviz, alongwith his wife, accused No.4. Both accused Nos.1 and 4, shareholders in Lenviz, alleged to have retained confidential information obtained during their employment at the complainant's company. Further, accused No.1, purportedly orchestrated the theft of confidential data, including source codes, CAD designs, copyrighted information, project files and other proprietary information. It is alleged that accused No.1 utilized this stolen data to place a competing bid on behalf of Lenviz for the Meher Baba Swarm Drone Competition-II, thus causing irreparable loss and damage to the complainant's company. 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". It is alleged that accused Nos.2 and 3 illegally hacked, copied, and shared highly sensitive information including source codes and original designs, with Lenviz. The said accused conspired to erase the evidence related to the crime. The stolen information was allegedly used by Lenviz to develop similar products to those of the complainant's company and to secure defense contracts, causing significant harm to the complainant's business.

3. The LVI Additional City Civil and Sessions Judge, Bengaluru, rejected the anticipatory bail application of the petitioners/accused Nos.1 and 3 respectively in Crl.Misc.Nos.11937/2024 and 11938/2024 vide order dated 13.01.2025. The trial Court has observed that the petitioners being the ex-employee of the complainant's company allegedly colluded to destabilize the national defence data for illegal financial gain. The investigation needs to thoroughly explore the data theft, its upload on the dark web and the involvement of the accused and the



same has to be nipped at the threshold itself. The Court has emphasized the importance of addressing data theft at its root to safeguard the national security and as the allegations are serious against the petitioners and the investigation is under progress, anticipatory bail to the petitioners was rejected.

4. Heard the learned counsel for petitioners, learned counsel for the State and the learned counsel for defacto complainant.

5. The contention of the learned counsel for petitioners are as under:

i. FIR lacks specific allegations against the petitioners and that investigation was conducted without any *prima facie* evidence of the offence.

ii. The Sessions Court erroneously held that, petitioners were accused of destabilizing the national defense data for illegal purposes and engaging in data theft, which was deemed a menace that needed to be



nipped in the bud. However, there is no evidence on record to substantiate such a threat to national defense, nor there is any data, information or document indicating data theft. Complaint does not indicate any threat to national security and no offence under Section 66(F) of the IT Act was established.

iii. Investigation would not be hindered by the grant of anticipatory bail. Existence of a civil suit with identical statements as in the complaint, filed much earlier, and the extreme delay in filing the complaint after the alleged date of the offence, further undermine the credibility of the complaint.

iv. Conduct of the complainant and the respondent demonstrates that the apprehension is justified. Despite filing a civil suit on 25.11.2024, complainant has belatedly filed a criminal complaint on 25.12.2024 ensuring that the Commissioner appointed by the co-ordinate Bench of this Court could not execute the warrant. This has been done solely to abuse the process of law and harass.



v. Despite lacking proof of data theft, the complainant prompted the police to conduct search and seize the devices of the accused on the next day. The respondent disregarded due process, failing to make a report or list of seized assets or draw mahazar.

vi. The unlawful detention, arrest and public parading of accused No.2 at his former office under the complainant's instructions constitute serious legal violations. These actions have led the petitioners to apprehend their imminent arrest fearing similar unlawful treatment. No incriminating material is found and no chargesheet is filed till date.

vii. Complaint and FIR do not establish any elements of alleged offences. Furthermore, respondent-Police have taken law into their own hands during investigation.

viii. The respondent, in contempt of this Court's order, has already seized all media devices and relevant documents related to this case. There is nothing left to be



recovered from the petitioners herein. The entire case relies on electronic evidence and documents in the custody of the police. There is no possibility of devices and documents being tampered with. Arresting these petitioners would be unnecessary and would only serve to coerce a confession from the petitioners while in custody.

ix. Petitioners have deep roots in the society and a reputation for professionalism among their peers. They have no criminal antecedents and are the sole breadwinners of their families. There is no material evidence to show that the petitioners are a flight risk.

x. Respondent police have flouted multiple procedural rules established by the BNSS and the Courts. The petitioners have cooperated with the police voluntarily appearing before them and submitting all the devices to the I.O. Despite holding the petitioners' devices for over 20 days, the respondent has not made out any case against the petitioners, and there is no *prima facie* case requiring their immediate arrest. No prejudice will be



caused, if anticipatory bail is granted to the petitioners and they are willing to abide by any conditions imposed by this Court.

6. In support of his contentions, learned counsel has placed reliance on the following decisions:-

- a. Chethan v. The State of Karnataka, CrI.P. 103890/2024 dd.21.01.2025
- b. Ramesh Kumar v. State of NCT of Delhi, (2023) 7 SCC 461
- c. Sushila Agarwal and others v. State (NCT of Delhi) and others (2020) 5 SCC 1.
- d. Ramappa @ Ramesh v. State of Karnataka CrI.P.1052/2024 DD.22.06.2021
- e. Pinapala Uday Bhushan v. The State of Andhra Pradesh, CrI.P.No.1052/2024 DD.26.03.2024

7. Learned Addl. SPP appearing for respondent-State has vehemently opposed for granting anticipatory bail and filed statement of objections. The contentions of the learned Addl. SPP are as under:



i. Accused No.2 unlawfully accessed and copied the confidential data including source codes, CAD designs and flight controller parameters belonging to the complainant's company. Forensic analysis confirmed the misappropriation of this data by Lenviz to develop competing products causing significant harm to the complainant. Further, unauthorized bid submission for the Meher Baba Swarm Drone Competition-II facilitated by the petitioner/accused No. 1 using stolen data, constitutes corporate espionage and breach of trust.

ii. The data stolen by accused No. 1, in collusion with other accused persons, includes proprietary software and designs for high-altitude drones developed by the complainant's company, which are used by Indian defence forces for border security. The custodial interrogation of the petitioner/accused No.1 is imperative to uncover the full extent of the data theft, retrieve encrypted and concealed digital evidence and track unlawful utilization of the stolen information in defence related projects.



iii. A notice under Section 41A of the Cr.P.C. was issued to the petitioner/accused No.1 on 27.12.2024, requiring his appearance before the I.O. on 31.12.2024. However, deliberate non-compliance with the said notice by the said petitioner exhibits lack of cooperation with the investigation and constitutes a direct affront to the due process of law.

iv. Investigation reveals that stolen proprietary data and digital records may have been stored in cloud-based environments placing them beyond the immediate reach of law enforcement authorities. Custodial interrogation of the petitioners is imperative to decrypt and access such digital evidence, thereby ascertaining full extent of the conspiracy and identifying its beneficiaries.

v. Considering gravity of the offence, if anticipatory bail is granted to the petitioners, at this stage, it would irreparably hamper the ongoing investigation and they may tamper the witnesses or abscond, as they lack permanent residence in Bengaluru.



vi. Granting bail to accused will set a wrong precedent and convey adverse message to the Society. Therefore, it is prayed that the anticipatory bail petitions preferred by the petitioners be rejected by imposing exemplary costs.

8. In support of her contentions, the learned Addl. SPP has cited the following decisions:

- a. Rakesh Baban Borhade vs. State of Maharashtra, (2015) 2 SCC 313.
- b. Rajesh Yadav vs, CBI, (2007) 1 SCC 70

9. Learned counsel appearing for defacto complainant has also vehemently opposed for granting anticipatory bail to the petitioners and has filed statement of objections. His contentions are reiterated as under:

i. The complainant-NRT was incorporated in 2017 and specializes in the development of aerospace and defense research. Its clientele includes government agencies such as the Indian Army, Air Force, Navy, BEL,



Hindustan Aeronautics, and DRDO, emphasizing highly sensitive nature of its business and its focus on national security.

ii. The complainant's operations are governed by stringent confidentiality and security protocols. These products play a critical role in national security as all transactions involving government agencies and defense organizations are subject to strict confidentiality agreements. Any unauthorized divulgence undermines client trust and can have serious repercussions for national security.

iii. Petitioner/accused no.1-Prabhat Sharma, served as the Vice President of the complainant company had access to sensitive and confidential information including source codes, CAD drawings, flight controller parameters and other proprietary data. During his tenure, complainant's company was unaware that petitioner/accused No.1 held a dual role as Director and Shareholder in Lenviz, a direct competitor. He concealed



his involvement in a UAV tender from the complainant and used his position to benefit the rival company at the expense of the complainant.

iv. Petitioner/accused No.1 recruited accused Nos. 2 and 3, who worked in the autonomous division system and were given access to critical project data. These accused were entrusted with confidential information and it was not known to the complainant that accused No.1 was recruiting them to steal proprietary information and transfer it to Lenviz for the benefit of the rival firm.

v. The complainant discovered the wrongdoing when petitioner/accused No.1, who was authorized to place a bid for the Meher Baba Swarm Drone Competition-II on behalf of the complainant, instead placed a competing bid on behalf of Lenviz. It is suspected that this bid was based on confidential information that petitioner/accused No.1 had obtained during his tenure with the complainant. This led to an internal investigation.



vi. When confronted, petitioner/accused No.1 admitted that he violated the commitments and contractual obligations by participating in the M-Prize Phase II competition on behalf of Lenviz. He further admitted that being the controlling director of Lenviz and accused No.4 wife of petitioner/accused No.1 i.e., Mrs.Garima Sharma, Shareholder, submitted a bid through Lenviz.

vii. Upon termination, petitioner/accused No.1 executed a declaration dated 12.01.2023, undertaking to refrain from using information acquired during his tenure and to return any proprietary information in possession of both himself and his wife. Subsequently, in 2024, accused Nos.1 to 3 resigned from the complainant's company.

viii. The complainant's company investigation revealed that accused Nos.2 and 3 had copied large volumes of sensitive and confidential data. Company laptop of accused No.2 showed a separate workspace under the name "Lenviz_Tech" on his AutoDesk Fusion



360 account, indicating the use of proprietary data for the rival firm. Further, forensic analysis by Secure Info Solutions OPC Pvt. Ltd. (SIS) confirmed that accused No.2 systematically stole and transferred sensitive data to Lenviz, which used the information to develop competing products. The stolen data was used by the accused persons to secure lucrative contracts with defense organizations.

ix. The defacto complainant filed a suit in O.S.No.8367/2024 seeking injunctive reliefs and filed I.A.No.3 under Order XXVI Rule 9 of CPC, seeking appointment of a Court Commissioner to seize the computer, laptop and other data in possession of the accused. However, the trial court issued notice. Aggrieved by this, the complainant filed Writ Petition No.32999/2024 before this Hon'ble Court, which issued an *ex-parte* order appointing a Court Commissioner to seize and draw up an inventory. Despite the Court Commissioner having a warrant to inspect the premises of



the accused, he was prevented from entering and drawing up the inventory.

x. The Court Commissioner's report was presented before this Court and the matter was considered on its merits. The Court, disposed of the writ petition on 29.01.2025, noting that intellectual property is a crucial form of property. The main purpose of permitting search and seizure without prior notice is to prevent evidence tampering in intellectual property cases, especially when the plaintiff i.e., complainant's company has an extremely strong *prima facie* case that the actual or potential damage is very serious and there is a real possibility of evidence destruction.

xi. The offence committed by these petitioners involves systematic and premeditated corporate espionage affecting economic and national security interests. The petitioners still have access to stolen confidential data and given their financial resources and business connections, there is a high flight risk and possibility of tampering with



electronic evidence that is yet to be fully recovered and analyzed. The investigation would require custodial interrogation.

xii. If the petitioners are granted anticipatory bail,
a) they may delete or alter critical forensic evidence before it can be examined. b) use insider knowledge of the victim organization's Information Technology infrastructure to further compromise security systems and c) collude with co-conspirators to manipulate the records and frustrate the ongoing investigation.

xiii. Non-compliance with Section 41A Cr.P.C. Notice indicates deliberate non-cooperation, disqualifying the accused from discretionary relief. The accused intentionally avoided the Notice to evade investigation, which disqualifies them from seeking anticipatory bail. Such non-compliance suggests evidence concealment and tampering as the data theft involves digital evidence that could be erased. Custodial interrogation aims to recover the stolen data. Their failure to appear before the



respondent-Police suggests an intent to destroy evidence, indicating interference with the investigation and delaying forensic analysis. Section 41A Cr.P.C. is not an absolute right, however it is a procedural safeguard that necessitates co-operation with the investigating agency.

10. In support of his contentions, learned counsel appearing for defacto complainant has placed reliance upon following decisions:

- a. Sumitha Pradeed v. Arun kumar C.K. (2022) 17 SCC 391
- b. Sourish Bose v. State of Karnataka, CrI.P.10546/2024
- c. State, CBI v. Anil Sharma, 1997 (4) RCR (Cri) 268

11. A preliminary objection was raised by the learned counsel for the petitioner that the complainant has no locus standi to oppose the bail application. He has relied on para 33 of Ramesh Kumar's case (supra) which reads as follows:



'33. We hold that at this stage, the complainants have no right of audience before this Court or even the High Court having regard to the nature of offence alleged to have been committed by the appellant unless, of course, a situation for compounding of the offence under Section 420IPC, with the permission of the court, arises.'

Relying on 'Chetan's case' (supra), he contended that application under Section 301(2) r/w 24(8) of Cr.P.C., would be applicable only to trial and enquiries and not at stage of consideration of bail application.

Placing reliance on the judgments in 'Sri Ramappa @ Ramesh' (supra) and 'Pinapala Uday Bhushan', the learned counsel has contended that even when a notice is issued under Section 41A of the Cr.P.C., the apprehension of arrest does not completely vanish away and under such circumstance the Courts cannot evade to entertain an application under Section 438 Cr.P.C.

Relying on the judgment in Sushila Agrawal's case (supra), it is contended that the anticipatory bail does not in any manner restrict or limit the rights or duties of police



or investigating agencies and Section 438 of Cr.P.C., cannot be time bound.

12. It is relevant to extract paras 23 and 24 in the case of **Jagjeet Singh and others VS. Ashish Mishra @ Monu and another** reported in **2022 LiveLaw (SC) 376.**

"23. A "victim" within the meaning of CrPC cannot be asked to await the commencement of trial for asserting his/her right to participate in the proceedings. He/She has a legally vested right to be heard at every step post the occurrence of an offence. Such a "victim" has unbridled participatory rights from the stage of investigation till the culmination of the proceedings in an appeal or revision. We may hasten to clarify that "victim" and "complainant/informant" are two distinct connotations in criminal jurisprudence. It is not always necessary that the complainant/informant is also a "victim", for even a stranger to the act of crime can be an "informant", and similarly, a "victim" need not be the complainant or informant of a felony.

24. *The above stated enunciations are not to be conflated with certain statutory provisions, such*



as those present in the Special Acts like the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, where there is a legal obligation to hear the victim at the time of granting bail. Instead, what must be taken note of is that:

24.1.*First, the Indian jurisprudence is constantly evolving, whereby, the right of victims to be heard, especially in cases involving heinous crimes, is increasingly being acknowledged.*

24.2.*Second, where the victims themselves have come forward to participate in a criminal proceeding, they must be accorded with an opportunity of a fair and effective hearing. If the right to file an appeal against acquittal, is not accompanied with the right to be heard at the time of deciding a bail application, the same may result in grave miscarriage of justice. Victims certainly cannot be expected to be sitting on the fence and watching the proceedings from afar, especially when they may have legitimate grievances. It is the solemn duty of a court to deliver justice before the memory of an injustice eclipses.*

13. In the aforesaid judgment the Apex Court has also observed that High Court or a Sessions Court, as the case may be, are bestowed with considerable discretion



while deciding an application for bail. This discretion is not unfettered, but has to be exercised judiciously, cautiously and strictly in compliance with the basic principles as laid down in plethora of decisions.

14. In Rakesh Baban Burhade (supra) it is held that anticipatory bail not to be granted as a matter of rule, but should be granted only when a special case is made out, and the Court is convinced that the accused will not misuse his liberty.

15. The relevant observations made by the Hon'ble Apex Court in Rajesh Yadav V. CBI (supra) is as follows:

` We are of the opinion that while it is true that Article 21 is of great importance because it enshrines the fundamental right to individual liberty, but at the same time a balance has to be struck between the right to individual liberty and the interest of society. No right can be absolute, and reasonable restrictions can be placed on them. While it is true that one of the considerations in deciding whether to grant bail to an accused or not is whether he has been in jail for a long time, the court has also to take into consideration other facts



and circumstances, such as the interest of the society.'

16. In *Sumita Pradeep V. Arun Kumar C.K.* (supra), the Apex Court has addressed the principles governing the grant of anticipatory bail. The judgment clarifies that the Court must first assess the prima facie case against the accused and then evaluate the nature and severity of the offence before deciding on anticipatory bail. Custodial interrogation can be one of the grounds to decline anticipatory bail, however, even if custodial interrogation is not required or necessitated, by itself cannot be a ground to grant anticipatory bail.

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***.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE