

IN THE HIGH COURT OF JHARKHAND AT RANCHI
A.B.A. No. 2622 of 2025

Ankush Agrawal, son of Subhash Chandra Agrawal, resident of A-464, Mission Road, Korba, Ward No.01, P.O. Korba, P.S. Korba Town, District Korba, Chhattisgarh				Petitioner
Versus				
The State of Jharkhand				Opposite Party

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioner	: Mr. M.S. Mittal, Sr. Advocate Mr. Krishna Shankar, Advocate Mr. Salona Mittal, Advocate Ms. Lavanya Gadodia Mittal, Advocate Mr. Yashdeep Kanhai, Advocate Mr. Arya Vardhan Singh, Advocate Ms. Divya Choudhary, Advocate Mr. Sourav Kumar Jha, Advocate
For the State	: Mr. Rajiv Ranjan, Advocate General Mr. Abhay Kumar Tiwari, A.P.P.
For the Informant	: Mr. Ajit Kumar, Sr. Advocate Mr. Amit Sinha, Advocate Ms. Akriti Shree, Advocate

Order No.09 / Dated 17.09.2025

The instant anticipatory bail application is filed on behalf of petitioner, who is apprehending his arrest in connection with Giridih (T) P.S. Case No. 23 of 2023 for the offence registered under Sections 420, 406, 467, 468, 471 of the Indian Penal Code, Sections 65(A), 63 and 69 of the Copyright Act and Sections 120, 118, 124 of the Patent Act pending in the Court of learned Chief Judicial Magistrate, Giridih, is pressed into motion.

2. The prosecution case, in brief, as disclosed in the written report submitted by Vijay Kumar Gupta, an employee of Carbon Resources Pvt. Ltd., Giridih is that he was serving as Finance Manager of the said Company which was engaged in manufacturing of carbon paste, electrically calcine anthracite and has been registered with trademarks. This Company is first of its kind.

3. It is further case of the prosecution that Ankush Agrawal (present petitioner), who is partner of Western Carbon Product, Korba, and Western Electrodes, Korba, Chhattisgarh was purchasing electrically calcine

anthracite from this Company and in that process, he came in contact with Pragat Rana and Kumar Saurav. They were lured into a criminal conspiracy on the promise of financial returns and consequently, they left their services of informant's company and joined the company of the petitioner in 2022.

4. Both these employees were serving in the computer and data centre and were privy to any secret information of the informant's Company. They were under instruction from not disclosing confidential data, despite this, it is alleged that they disclosed and compromised vital confidential information by stealing information and data from the informant's Company. The main allegation is that even after leaving the informant's Company, the above stated previous employees were trying to extract secret data and trade secret of the Company of the informant. By stealing data and information, huge loss has been caused to the Company of the informant.

5. It is argued that the dispute is purely commercial in nature and the provisions of Copy Right Act will not be attracted as registration number of the patents being claimed by the petitioner, has not been disclosed. In order to attract the provisions of Sections 65(A), 63 of the Copyright Act, 1957, the accused should have circumvented an effective technological measure applied for the purpose of producing thereby having violated any of the rights conferred by the said Act. Both these employees, who are said to have disclosed the trade secrets, have already been granted bail by the co-ordinate Bench of this Court.

6. It is submitted by the learned counsel on behalf of the petitioner that earlier anticipatory bail application being A.B.A. No.2886 of 2023 which was dismissed as withdrawn by this Court on 25.01.2024. It is further submitted that the second anticipatory bail application is not barred in view of the ratio laid down by the Apex Court in *Vipin Kumar Vs. State of U.P.*, **(Criminal Appeal No.726 of 2025)**.

7. It is argued by the learned Advocate General that instant anticipatory bail application is not maintainable for the reason that the earlier anticipatory bail application was dismissed as withdrawn after filing of counter affidavit by the State. No change of circumstance has been cited in the original anticipatory bail application for renewing the same. It is

submitted that law is settled unless there is change of circumstance, the second anticipatory bail application is barred under law. Reliance is placed on order of Apex Court in *G.R. Ananda Babu Vs. The State of Tamil Nadu & Another*, SLP (Crl.) No.213 of 2021, *Mohd. Sharif Siddiqui @ Sharif Siddiqui Vs. The State of Uttar Pradesh & Another*, SLP (Crl.) No.11316 of 2022, wherein it has been held that as earlier anticipatory bail application was preferred and the same came to be withdrawn with liberty to surrender before the trial Court and apply for regular bail, thereafter, second anticipatory bail application shall not be maintainable, more particularly, in the absence of any changed circumstance.

8. It is argued that in the main anticipatory bail application, no change of circumstance has been cited for preferring second petition. In the supplementary affidavit, it has been stated in para 5 that there did not exist apprehension of earlier petition, therefore it was withdrawn. However later, a rather queer logic has been proffered that due to change of police officers, caused apprehension of arrest. It is contended that petitioner did not surrender and has not cooperated in the investigation. It is further argued that so far the merit of the case is concerned, it has been dealt at length in para 9 – 15 of the counter affidavits which deals with the materials collected during investigation against this petitioner.

9. It is also submitted that there is criminal antecedent of the petitioner as stated in order passed by the Principal Sessions Judge, Giridih, wherein reference has been made to similar complaints against one Shankar Lal Sharma, partner of Weston Electro Carbon and Graphite Product Unit, Korba, Chhattisgarh. But these are vague and allegations without any reference to case number or any details thereof.

10. Considering the submissions advanced on both sides and on perusal of materials on record, it is apparent that matter involves alleged theft of trade secret by two ex-employees of the informant company, under a criminal conspiracy with the petitioner.

11. So far, the allegations under Section 63 and Section 65(A) of the Copyright Act are concerned, they are punishable for a sentence less than three years and are therefore bailable in nature in terms of Schedule I of the

Cr.P.C./BNSS. Section 69 is not a penal Section, rather it deals with the offences committed by the Companies.

12. In order to trigger an action for breach of patent, in the first place a patent should have been granted. In the absence of patent in favour of the complainant, no offence will be made out. In any case, the offences charged are bailable and therefore, anticipatory bail application will not be maintainable for these offences.

13. Allegation for offences under IPC lack any conviction. Offences alleged are fraud, criminal breach of trust and forgery. Difference between Section 417 and 420 I.P.C. is that where in pursuance of deception, no property passes, the offence is one of cheating punishable under Section 417 of the IPC, but wherein pursuance of the deception, property is delivered, the offence is punishable under Section 420 of the I.P.C. Making of false document with intent to cause damage is the offence of forgery. Requirements to constitute the offence of forgery is (i) the document or part of the document must be false in fact; (ii) it must have been made dishonestly or fraudulently within the meaning of Section 464 IPC.

14. FIR does not disclose what is the document that has been forged. Therefore, prima facie offence of forgery does not appear to be made out. Moreover, the allegation of criminal breach of trust and other allegations are mainly directed against the employees and not against this petitioner. Charge against the petitioner is of criminal conspiracy, but even the case has not been registered under Section 120 B of the IPC.

15. The two main accused persons, who were employees in the company of the petitioner, and are alleged to have committed theft of trade secret, have been granted anticipatory bail on merit which constitute the change of circumstance to renew the bail application.

16. It is true that when an anticipatory bail application is rejected, the party apprehending arrest should surrender before the trial court and cooperate in the process of investigation. However, it will be a travesty of justice that anticipatory bail application of this petitioner is rejected on a technical ground, when he is sought to be implicated on the basis of charge of conspiracy, whereas the main accused persons have been enlarged on

anticipatory bail. When the offences are mostly bailable in nature, without any direct charge against the petitioner and the earlier bail application was dismissed as withdrawn, the present bail application cannot be shut out as not maintainable. There should be some tangible material to make out an offence of conspiracy, but here in the present case, even the case has not been filed under Section 120-B of the IPC.

17. Considering the submissions made, the anticipatory bail application is allowed. Accordingly, the petitioner, above named, is directed to surrender before the learned Trial Court within a period of two weeks subject to the following conditions :-

- I. In the event of his arrest or surrender, he shall be released on bail on furnishing bail bond of Rs.100,000/- (Rupees One Lakh only) with two sureties of the like amount each to the satisfaction of the Court below, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure. Bailors shall be income tax payees.
- II. He will cooperate with police in the investigation.

The petitioner will co-operate with the investigation and will appear under Section 41A Cr.P.C. as and when required and comply with the conditions as laid down under Section 438(2) of the Cr.P.C.

(Gautam Kumar Choudhary, J.)

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