

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**BAIL APPLICATION NO.2402 OF 2017**

Alpesh Bhagavandas Patel ...Applicant  
Versus  
The State of Maharashtra ...Respondent

Mr.H.H.Ponda a/w adv. Vinayak Patil, Adv.Tarun Sharma for  
the applicant.

Ms. Anamika Malhotra, APP for the State..

PSI A.R. Mahajan , AEC,Thane .

**CORAM: A.M. BADAR, J.**  
**DATED: 13<sup>th</sup> OCTOBER, 2017**

**PC:-**

1. By this application, the applicant/accused No.7 Alpesh Patel is seeking his release in Crime No. II-25 of 2017 for offences punishable under Sections 420,465,468,471 r/w 34 of the Indian Penal code, 4(A), 5 of the Public Gambling Act and 25(C) of Indian Telegraph Act registered with police station Kasarwadi Police Station, Thane at the instance of Roshan Devre Police Sub inspector on 22.09.2017. Heard finally with consent of the parties.

2. Heard the learned advocate appearing for the applicant/accused No.7. He argued that even if case of the prosecution is considered as it, then also it reflects that the applicant is accused of commission of a bailable offence as he was acting as courier for receiving an amount of Rs. 5 lakh. The prosecution case itself shows that he could not receive so called amount and prior to receipt of that amount by the applicant he came to be intercepted by the police. It is further argued that after rejection of his bail application by the learned Magistrate, the applicant had moved similar application before the learned additional Sessions Judge, as the same was not entertained it was withdrawn.

3. The learned APP has not disputed the fact that the applicant, according to the prosecution case, had come to co-accused Pravin Behara for receiving Rs.5 lakh on 3.10.2017 but prior to receipt of that amount, he came to be apprehended by police. She opposed the application contending that the crime in question is serious and in past

one similar offence was registered against the present applicant.

4. According to the prosecution case, on 21.9.2017 police got information that accused No.1 Harish and accused No.2 Paresh were receiving betting on India and Australia Cricket match. They were forwarding the betting amount to the accused No. 2 to 5 . In pursuant to this information, police raided Hotel Shambhuji and found two persons in side room No.105 of that hotel. One person was receiving calls on his cell phone while another was watching the cricket match on the TV set. Those persons were apprehended and seizures were effected.

5. So far as, the present applicant Alpesh Patel is concerned allegations are to the effect he acted as money transporter and attempted to receive betting amount from Pravin Behara. The remand application at Exh.B dated 6.10.2017 reflects role of the present applicant in the crime

in question. He could not receive the amount from the co-accused as the police apprehended him. Allegations are to the effect that he had been for receiving that amount from co-accused Pravin Behara.

6. Considering the fact that the applicant was arrested and his PCR is over and now he is in judicial custody his further pretrial detention is not warranted. Prima facie, it is seen that the offence alleged against the present applicant is a bailable one, though the co-accused are alleged to have committed non bailable offences. Investigation qua, the present applicant seems to be over and as such his pre-trial detention is not warranted. At pre conviction stage there is presumption of innocence of the accused and the detention is not supposed to be punitive or preventive. All offences alleged against accused persons are triable by the Magistrate . Therefore, the following order.

**ORDER.**

- (i) The application is allowed.
- (ii) The applicant/accused in Crime No. II-25 of 2017 for offences punishable under Sections 420, 465, 468, 471 r/w 34 of the Indian Penal Code, 4(A), 5 of the Public Gambling Act and 25(C) of Indian Telegraph Act registered with police station Kasarwadi Police Station, Thane be released on bail on executing P.R Bond of Rs.15,000/-and on furnishing surety in the like amount .
- (iii) As a condition of this order, the applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- (iv) The applicant/accused should not repeat commission of similar crime in future
- (v) On request of the learned Counsel appearing for the applicant, initially for a period of 6 weeks' from today in order to enable him to arrange for surety the applicant

accused be released on furnishing cash Security of Rs.15,000/-.

(vi) Parties to act on an authenticated copy of this order.

(vii) The application is disposed of accordingly.

**(A.M. BADAR, J )**