

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 160 OF 2019

Babu Baig s/o. Husain Baig,
Age 50 years, Occu. Business &
Corporator, R/o. New Bustand Road,
Umari, Tq. Umari, Dist. Nanded.

....Applicant.

Versus

1. The State of Maharashtra,
Through the Police Officer,
Bhagpur Railway Police Station,
Nanded, Tq. & Dist. Nanded.

2. V.N. Benhar,
(Assistant Manager)
Age 42 years, Occu. Service,
R/o. House No. 182, MLR Colony,
Damaiguda, Hyderabad, Guntur
(Rural), Andhra Pradesh State.

....Respondents.

Mr. P.P. More, Advocate for applicant.

Mr. S.J. Salgare, APP for respondent/State.

**CORAM : T.V. NALAWADE AND
MANGESH S. PATIL, JJ.**

DATED : 08/04/2019.

ORAL JUDGMENT :

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The proceeding is filed for relief of quashing of F.I.R. No. 1296/2018 registered with Bhagpur Railway Police Station, Nanded for offences punishable under sections 120-B, 109, 420, 408, 409 of Indian Penal Code and sections 3 and 4 of Railway Property (Unlawful Possession) Act, 1966.

3) This Court has carefully gone through the record. The report was given initially against some railway ticket clerks that they had collected the amount of Rs.77,26,343/- by selling the railway tickets, but they have not credited that amount in the account of railway and they have misappropriated that amount.

4) During investigation, one of the ticket clerk informed that the amount which he had misappropriated was used for betting on Matka, kind of gambling and he was giving it to the present applicant. Present applicant is said to be Matka agent, a person who is working as agent of Matka business and he takes betting from the people. In view of the nature of allegations made against the applicant and in the Court virtually there will be no evidence against the applicant, this Court holds that it will be misuse of process of law by asking the applicant to face the trial of the case, if any, filed against him. Police took his name on the basis of disclosure made by accused, but there was no question of recovery of anything from him in view of the aforesaid circumstances. In the result, the application is allowed. Relief is granted to the applicant in terms of prayer clause 'C'.

Rule is made absolute in those terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/