

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 571 OF 2019

Brijesh Mansukhlal Modi	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

- Mr.Karl Rustomkhan i/b. Mr.W.N. Pathan for the Applicant.
- Mr.A.R. Kapadnis, APP for the Respondent.
- Mr.Gaonkar, P.I. and Mr.Walni, API, Santacruz Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 6th MARCH, 2019.

P.C. :

1] The applicant is apprehending arrest in connection with C.R. No.13 of 2019 registered with Santacruz Police Station. The FIR was lodged on 7th January, 2019 for the offence punishable under Sections 465, 467, 471 read with 34 of the Indian Penal Code and Sections 4 and 5 of the Prevention of Gambling Act and Section 25(C) of the Indian Telegraph Act. Subsequently, Section 467 of the Indian Penal Code was deleted and Sections 420, 468 and 120B of the Indian Penal Code was invoked.

2] The Applicant preferred an application for anticipatory bail before the Sessions Court which is rejected by order dated 1st March 2019. It

is the case of the Prosecution that on 7th January, 2019, secret information was received about gambling activities carried out with betting on a Cricket Series known as Big Bash, Australia Series, T-20 Cricket Cup 2019 which was being played in sub-continent countries. In the raid, mobile-phones were found in possessions of the accused nos.1 to 4. The equipment relating to gambling activities were recovered from the premises. The diary was also recovered during the raid. Accused Nos.1 to 4 were arrested.

3] Learned counsel for the Applicant submitted that the Applicant has not played any role in the crime. The offence is under the Prevention of Gambling Act and Indian Telegraph Act which are bailable in nature. The offence punishable under Sections 420, 468 of the Indian Penal Code are not made out against the Applicant. The main accused were arrested and they were granted bail. The Applicant was arrested in a similar case in which he was granted bail for lack of evidence against him by the Court of Additional Chief Metropolitan Magistrate. The custodial interrogation of the Applicant is not necessary. He was not found present at the place of raid.

4] Learned APP, however, submitted that the investigation is in progress. There is sufficient evidence against the Applicant. The FIR refers to the code used by the accused while betting and the Applicant is referred as

“Bali”. It is submitted that call record also indicate interaction of the Applicant with co-accused. The diary recovered during the raid also shows the involvement of the Applicant as sub-bookie. The Applicant is beneficiary of the amount involved in the crime. Hence, custodial interrogation of the Applicant is necessary. It is also submitted that the Applicant has two antecedents, which are of similar nature. Learned APP also pointed out the statements recorded during the course of investigation shows the complicity of the Applicant in the crime.

5] I have perused the FIR. Four persons were arrested on the spot and articles used in commission of crime were recovered. The documents such as diary was recovered, which according to the prosecution refers to the name of the Applicant as sub-bookie. During investigation, it was revealed that the Applicant is punishable in the crime and his transaction in the code language is being referred to as “Bali”. According to the prosecution, the call record also shows the involvement of the accused.

6] In the circumstances, no case for grant of anticipatory bail is made out. Hence, this application is rejected.

[PRAKASH D. NAIK, J.]