IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.221 OF 2021

Sambhaji Baburao Patil … Applicant

Versus

The State of Maharashtra … Respondent

…..

Mr. Ravin Bhuttar i/b Mr. Vijay Shinde, Advocate for the Applicant.
Mr. Y. M. Nakhwa, APP for the Respondent – State.

…..

CORAM : PRAKASH D. NAIK, J.

DATE : 11th FEBRUARY, 2021

PER COURT:

1. This is an application for anticipatory bail in connection with C.R. No. 2 of 2021 registered with Crime Branch, C.B.D. Belapur for the offences under Sections 420, 294(A) r/w Section 34 of Indian Penal Code and Sections 4(A), 5 of the Maharashtra Prevention of Gambling Act, 1887 and Section 66(d) of the Information Technology Act, 2000.

2. The case of the prosecution is that, raid was conducted on 31st December, 2020 at Shop Nos. 7, 8 & 9 situated at Mini Market, Sector-6, C.B.D., Belapur, Navi Mumbai. The raid was conducted on receipt of secret information about illegal Lottery Center. The applicant is the owner of the block Nos. 7, 8 & 9. At the

time of raid it was found that the accused in collusion with S.B.S. Broking & Trading Auctioning Centre (OPC) Pvt. Ltd and Avishkar Broking and Trading Co. were running illegal online gambling/lottery through computers on pretext of online rice auction centre. Accused Nos.1 to 3 were arrested on the spot. They were employees of applicant, who were operating the computers. The source of softwares and data of computers seized from the spot is to investigated. The applicant had obtained dealership online gambling/lottery from Avishkar online marketing. Various criminal cases were registered against the Avishkar online marketing.

3. The applicant had preferred an application before the Sessions Court which has been rejected by order date 18th January, 2021.

4. Learned advocate for the applicant submitted that no specific role has been assigned to the applicant. The applicant had obtained dealership from the two companies in respect of online auction. In accordance with agreement he purchased softwares from those companies and accepting amount from the customers towards auction of rice. The arrested accused are released on bail. The articles were seized. The receipts of other items were found on the spot. Nothing is required to be recovered. The applicant had no

knowledge whether the rice is actually delivered to the customers or not. The applicant is victim at the instance of S.B.S. Broking & Trading Auctioning Centre (OPC) Pvt. Ltd and Avishkar Broking and Trading Co. online. The applicant had filed complaint against Avishkar Broking and Trading Co. online on 5th January, 2021. It is further submitted that in 2004, the applicant had deposited the amount for retail Lottery Centre namely Rajshree Lottery as retailer to Avishkar Co. He had handled the lottery centre under instructions of the distributor. He was given understanding that the business operated is legal and Avishkar Group is permitted to perform such business. In September, 2020 Avishkar Group proposed to carry forward S.B.S. Auction machines from S.D.S. Broking and Trading Auctioning Center Pvt. Ltd. in spite of Rajshree Lottery. The Avishkar Group informed the applicant and ensured that the auction machine was legally authorized by the government and provided documents in that regard. The applicant believed the particulars stated by Avishkar Group and continued on the deposit made by him to the distributor for the said machine and business set up. He had no intention to deceive the Government or any authority. The said shop was provided by Avishkar Group. The transactions and the amount for trading mentioned in the order passed by the learned Sessions Judge has not relevance to the accused. Except Section 420 of Indian

Penal Code, all other offences are bailable.

5. Learned APP submitted that the applicant's involvement is disclosed. Investigation revealed the complicity of applicant in the crime. He pointed out investigation papers and the statements of the witnesses. It is submitted that the statements of the persons who had visited the lottery center indicate that several persons were indulging in lottery by providing number. When the police raided, they were questioned about their presence. They were asked whether auction of rice is going on at the said centre. The witnesses stated that no such auction is being operated and the customers are playing lottery with single digit number. He further submitted that the statements of witnesses would also indicate that The applicant is involved in conducting this Lottery Centre.

6. The investigation is in progress. From the FIR and the investigation paper it can be seen that the prosecution case is that the applicant is involved in the crime. The premises were raided. The applicant contends that, he had no knowledge of real nature of business. However, the case of the prosecution is that it was revealed on verification of data that, in between 19th December, 2020 to 10th January, 2021, the company had carried out trading of Rs. 10,97,00,000/- but no rice is delivered to anyone. This, shows

that the applicant has willingly indulged in business of online gambling/lottery under the pretext of online auction of rice. It was also alleged that the scope of transaction is very wide and huge amount is involved. Considering the aforesaid circumstances, I find that this is not the fit case to grant relief under Section 438 of Cr.P.C. Custodial interrogation of the applicant is necessary. Hence, I pass the following order:

ORDER

Anticipatory Bail Application No. 221 of 2021 is rejected and stands disposed off accordingly.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)