

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

ANTICIPATORY BAIL APPLICATION NO. 1261 OF 2021

1. Sanju Omprakash Dhumal
2. Kishan Ramnivas Yadav Applicants

Versus

The State of Maharashtra Respondent

Mr. Amit Singh for Applicants.

Mrs. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 12th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No. 112 of 2021 registered at Vitthalwadi Police Station, Ulhasnagar-4, on 22/04/2021, under sections 4 and 5 of the Maharashtra Prevention of Gambling Act and under sections 21, 25(b) and 25(c) of the Indian Telegraph Act.

2. Heard Shri. Amit Singh, learned counsel for the applicants and Smt. Lohokare, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by PSI Yogesh Mali, attached to Ulhasnagar police station. He has stated that, on prior information, they reached the premises at Section 29, Ulhas Nagar – 4, at about 7:10p.m. on 21/04/2021. Two persons, namely, Rohit Narendra Punjabi and Rohit Washumal Punjabi were arrested. In that premises, there were various telephones and other instruments of gaming. Those two were taking bets on ongoing IPL matches. At their say, the police party went to Ananda Inn Lodging, near Shriram Nagar, Ulhas Nagar – 4. According to the arrested accused, the applicant Sanju Dhumal and another accused were conducting similar activities at that time. The police party went to that place. Nobody was present there. But they entered the room and found mobile handsets and other instruments of gaming which could be used for taking bets. On this basis, the F.I.R. is lodged.

4. Learned counsel for the applicants submitted that, only applicant No.1's name is mentioned in the F.I.R. The allegations against him are vague. Applicant No.2 is not named in the F.I.R. Their names transpired specifically in the remand report dated

25/04/2021 onwards. He, therefore, submitted that there is no material against the present applicants.

5. Learned APP produced the investigation papers before me today. Learned APP specifically referred to the statements given by Kishan Sharma and Pawan Gurnani. She submitted that, these statements show applicants' involvement in the offence and therefore, they should not be protected by an order of anticipatory bail.

6. I have considered these submissions and in particular, I have perused these statements. Witness Kishan has stated in his statement that the applicant No.1 Sanju and accused Pankaj Bhatia were his friends. This witness was aware that the applicant No.1 and Pankaj were involved in placing bets through mobile phone. He has also stated that the applicant No.2 used to collect money from the customers. This witness particularly states that, he was aware of these facts. However, he has not spoken about any particular incident which he himself had witnessed to support his information. Therefore, this statement is vague, as far as, role and involvement of the present applicants are concerned.

7. I have also perused the statement of witness Pawan Gurnani. He has spoken about his discussion with his friend Nitesh Poptani. This friend Nitesh, in turn, had told him that the applicant No.1 was placing bets with Pankaj. Thereafter this witness had taken phone number of Pankaj. He had interaction with Pankaj. It is his case that, Pankaj had told this witness that applicant No.2 would approach him and this witness should pay him. Thereafter his statement mentions that this witness had placed bet of Rs.500/- and sent a message to Pankaj. Beyond that, this witness did not mention anything else. Thus, even this witness has not spoken about any direct role involving either of these applicants. This witness did not have personal interaction with either of the accused.

8. Learned APP fairly submitted that, besides these two witnesses, there is no other reference to the applicants except what is mentioned in the F.I.R. Even arrested accused have not given their statements implicating both the applicants beyond what is stated in the F.I.R. In this view of the matter, material against the present applicants is clearly lacking. There is no sufficient material

warranting their custodial interrogation. Hence, I am inclined to protect them by way of anticipatory bail. They will, ofcourse, have to attend the police station and co-operate with the investigation.

9. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No. 112 of 2021 registered at Vitthalwadi Police Station, Ulhasnagar-4, the applicants are directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.
- (ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)