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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2953 OF 2021

BALIRAM SHIVAJI GHANTE

....APPLICANT

V/s.

THE STATE OF MAHARASHTRA

.....RESPONDENT

Mr. Yashwardhan Tiwari advocate for the applicant

Smt. J. S. Lohokare APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: SEPTEMBER 28, 2021.

P.C.:

1] Applicant is seeking bail in C.R. No. 45/2021 registered with Shil Daighar Police Station for offence punishable under Sections 420, 467, 468 471 r/w 34 of the Indian Penal Code and under Sections 65 (c) & (d) of Information Technology Act, 2000 and under sections 4 & 5 of Gambling Act.

2] According to learned counsel for the applicant, necessary ingredients of Sections 420, 467, 468, 471 cannot be inferred as

neither forgery is established nor there is material to infer hacking by the present applicant. He further claims that act of cheating and gambling cannot go along at the same time as the provisions operate in opposite arena. It is also claimed by the learned counsel for the applicant that from the available material it is not demonstrated as to how provisions of IT Act are violated by the applicant.

3] Learned APP would invite attention of this Court to seizure of four mobile phones from the applicant and also the fact that applicant is having criminal antecedents.

4] Considered submissions.

5] Main accused with whom applicant claimed to have been working is already ordered to be released on bail.

6] Apart from above, there is no evidence available on record so as to justify the accusation of hacking against the applicant and that being so, the claim that there is forgery or cheating also prima facie

cannot be inferred against the applicant.

7] In the aforesaid background, application deserves to be allowed with following conditions:

(i) Applicant be released on bail in C.R. No. 45/2021 registered with Shil Daighar Police Station for offence punishable under Sections 420, 467, 468 471 r/w 34 of the Indian Penal Code and under Sections 65 (c) & (d) of Information Technology Act, 2000 and under sections 4 & 5 of Gambling Act upon furnishing P.R. bond in the sum of Rs. 15,000/- with one or more sureties in the like amount.

(ii) Applicant shall not influence the prosecution witnesses in any manner or tamper with the evidence.

(iii) In case applicant fails to appear before the Court below on two consecutive dates for unreasonable cause, Trial Court will be at liberty to initiate suo motu proceedings for cancellation of bail against the applicant.

(iv) If the applicant is found involved in any other offence similar to the present one, particularly having regard to the fact that there are other similar two antecedents against the applicant, the Trial Court will be at liberty to order cancellation of bail of the applicant in all other offences.

8] Application stands disposed of.

[NITIN W. SAMBRE, J.]