IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.125 OF 2022

Mahendra Sudam Mahajan

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Girish S. Rane Advocate for Applicant.
Mr.N.T. Bhagat, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 11th FEBRUARY, 2022

ORDER :

1. Present Application has been filed by the applicant, who is apprehending his arrest in connection with Crime No.8 of 2022 registered with Amalner Police Station, Amalner, Taluka-Amalner, District-Jalgaon, for the offence punishable under Sections 419, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, under Sections 4(a) and 5 of the Maharashtra Prevention of Gambling Act, 1887 and under Sections 17, 32 and 39 of the Maharashtra Money-Lending (Regulation) Act, 2014.

2. It has been vehemently submitted on behalf of the applicant that perusal of the First Information Report would show that it has been lodged by the Police Officer who is stated to be the member of the raiding party, who conducted the raid on the basis of secret information received. As regards the raid is concerned, they had found two persons and only on the basis of their statements it is alleged that said business of gambling online was run by the present applicant, however that statement has no evidentiary value. The Police Officers have also conducted raid on the house of the present applicant and had found cash worth Rs.3,07,600/-, certain blank cheques i.e. on some there were signatures and some were totally blank. So also it is stated that they had found certain agreements. Nobody has made any kind of complaint in respect of those documents in order to attract the provisions of the Maharashtra Money-Lending (Regulation) Act. Sections 4(a) and 5 of the Maharashtra Prevention of Gambling Act are bailable and as regards Sections under the Indian Penal Code are concerned, the informant cannot be the person who could be said to be the competent person to lodge the report, as he had never received any kind of

complaint and therefore the applicant deserves interim protection till the final disposal of the application.

3. Learned APP strongly opposes the application and submits that contents of the First Information Report are clear enough to state about the active part of the applicant involved in the crime. The matter is coming for the first time and he is yet to receive the papers.

4. It is to be noted that for grant of interim relief or even for final relief, this Court has to see as to whether the case is made out and whether the custodial interrogation of the applicant is necessary for the purpose of investigation. As aforesaid, the contents of the First Information Report would show that it has been the outcome of the raid conducted at two places. At first place two persons were found and they have categorically stated that the business of taking the betting on-line is of the present applicant. They have made specific statement that the amount collected is noted in the diary and they kept the account of the said amount and thereafter it is sent on the bank account of the applicant. Therefore, definitely investigation in this regard is required to be made.

5. Even at the first place of raid, Police had found articles worth Rs.72,500/- in the form of four mobile handsets, two calculators, nineteen diaries, one laptop, two key boards, one charger etc. Pursuant to whatever information was received from those two persons, further raid has been conducted in the house of the present applicant, where wife of the present applicant was present and from the house of the applicant cash, blank cheques were recovered, so also a diary was recovered having names of different persons and also the amount was recovered. So also there were another three diaries having numbers written on it, which can be connected to gaming in the form of Matka. Further, agreement to sell, 7 X 12 extracts etc. were also found which appear to be the part of money lending business as per the contentions of the informant. It has been further contended that further inquiry revealed that along with other persons the present applicant had prepared Website by name "kubermatka.com" and they used to invite persons to play gaming or have betting through website. Possibility of addition of some Sections under the Information Technology Act cannot be ruled out and therefore taking into consideration the manner in which the offence is alleged to be committed, does not deserve

grant of extraordinary relief in the form of Section 438 of the Code of Criminal Procedure in favour of the applicant.

6. Application stands rejected at the threshold.

[SMT. VIBHA KANKANWADI , J.]

asb/FEB22