

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (ABA) No.503/2022

Ashfaque Sheikh V State of Maharashtra thr PSO PS Nandgaon Peth, Amravati

Office notes, Office Memoranda of

Coram, appearances, Court's orders

or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.V. Band, Advocate for applicant.

Shri T.A. Mirza, APP for State.

CORAM : ANIL S. KILOR, J.

DATE : 21-07-2022

The applicant has approached to this Court by filing the present application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No.0115/2022 registered with Police Station Nandgaon Peth, District Amravati, for the offences punishable under Sections 188, 420, 468, 471 read with Section 34 of the Indian Penal Code, Sections 4, 5 of the Maharashtra Prevention of Gambling Act and Section 25(c) of the Indian Telegraph Act.

2. The learned Counsel for the applicant submits that the the applicant has been falsely implicated in the alleged offence as he is no way connected with the alleged offence.

3. It is submitted that on the statement of co-accused the applicant has been arraigned as accused, which is not permissible.

4. The learned Counsel for the applicant submits that the applicant is doing a bakery business and not related with any betting or similar activities of gambling. It is pointed out that there are no criminal antecedents to the discredit of the applicant. Accordingly, he prays for grant of pre arrest bail.

5. On the other hand, learned APP strongly opposes the application and submits that there are statements of co-accused who have disclosed the name of the applicant and from the mobile, which was seized, it is revealed that some calls were received or made to the applicant by the co-accused. He submits that the custodial interrogation of the applicant is necessary for investigation to find out the other persons who are involved in the alleged offence or whether the applicant is involved in any other such crime. Accordingly, he prays for rejection of the present application.

6. I have perused the case diary the FIR.

7. From the case diary it can be seen that on the statements of co-accused the applicant was arraigned as accused in this case. The applicant was not on the spot when the raid was conducted. Thus, except the statement of co-accused there is nothing to show the involvement of the applicant in the alleged offence. As far as information collected from the mobile which was seized during the raid it shows that some calls were received

or made by the applicant, however, prima facie, it does not show the involvement of the applicant in the crime of gambling. Thus, at this stage, in absence of any incriminating material against the applicant, I am of the opinion that the applicant is entitled for grant of pre-arrest bail.

8. As far as the investigation is concerned, the purpose would be served if the applicant is directed to attend the Police Station on certain dates. Accordingly, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) Order dated 07-07-2022 is confirmed.
- iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence.
- iv) The applicant shall attend the concerned Police Station on 25-07-2022, 26-07-2022, 27-07-2022 and 28-07-2022 between 10.00 am to 12.00 noon and thereafter as and when his presence is required.

(Anil S. Kilor, J.)