

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.886 OF 2023

Balu @ Mahendra Bhagwan More	..Applicant
Vs.	
The State of Maharashtra and anr.	..Respondents

Mr.Yogesh A. Jadhav, Advocate for applicant
Mr.S.N.Morampalle, APP for respondent no.1

**CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : SEPTEMBER 14, 2023**

ORDER (Per Sanjay A. Deshmukh, J.) :-

By this application under Section 482 of the Code of Criminal Procedure, the applicant prays for quashment of the FIR, being Crime No.0057 of 2023, registered with Chalisgaon Police Station, Tq. Chalisgaon, Dist. Jalgaon, for the offence punishable under Section 12(a) of Maharashtra Prevention of Gambling Act and Section 109 of Indian Penal Code, consequential charge sheet No.12 of 2023 dated 09.04.2023 and the proceedings in S.C.C.No.386 of 2023, pending before learned Judicial Magistrate, First Class, Chalisgaon.

2. The informant averred in the report that he is serving as Sub-Divisional Police Officer, Chalisgaon. On 11.02.2023, he got

information that some persons are playing *Matka* (अंकसट्टा) by collecting money from people. Therefore, they decided to have raid. They along with panch witnesses went for raid. They found that one person was writing something on the paper. They took his personal search and found amount of Rs.7,230/- with him. He disclosed his name as Nandkumar Bundelkhandi. He informed that he was serving with one Balu More and Sanket More on daily-wage basis. The police collected the articles and the money, which were seized. He, therefore, lodged the report.

3. Learned counsel for the applicant submits that there is absolutely no evidence of involvement of the applicant in the crime. The statement of the co-accused is not admissible, which is recorded before police. He, therefore, prayed for quashment of the FIR.

4. Learned APP for the State submits that the name of applicant is mentioned in the report. There is *prima facie* evidence against him. He, therefore, prayed for rejection of the application.

5. Perused the charge sheet. The report itself shows that one of the co-accused stated the name of the applicant that he is serving him. The statement of the co-accused is not admissible in

evidence as it is a confession before the police. Considering this legal aspect, there is no material against the applicants. The application, therefore, deserves to be allowed.

6. In the result, the application is allowed in terms of prayer clauses (B) and (B-1).

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP