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

911 BAIL APPLICATION NO. 472 OF 2024

BHISHAM ASHOK WADHWANI

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mr. S. A. Kulkarni, Advocate for the applicant
Mrs. D. S. Jape, APP for the respondents/State

CORAM : SANJAY A. DESHMUKH, J.

DATE : 03rd APRIL, 2024

P. C.

1. This is an application for granting regular bail under Section 439 of the Code of Criminal Procedure Code. Accused is arrested in Crime No. 359/2023 registered at Azadnagar Police Station, Dhule for the offences punishable under Sections 4 & 5 of the Maharashtra Prevention of Gambling Act, 1887 read with Section 420 and 34 of the Indian Penal Code.

2. It is averred in the report that in Room No. 112 of Hotel Amit Plaza situated near Agrasen Statue, Dhule, the co-

accused Nilesh Ramprasad Rao is accepting bet on cricket match being played in between India and South Africa through mobile phone application and therefore, action has to be taken. Accordingly, API Phad, LCB, Dhule alongwith two panch witnesses and raiding party including police personnel raided the spot. The co-accused Nilesh Ramprasad Rao was found in Room No. 112 of the said hotel, a cricket match of India and South Africa was being displayed on the television in the said room, two mobile phones of Redmi and realme make were lying on the bed and a betting application by name 'All Panel' was in operation through the said mobile phones. The amount of bet together with names of the users were displayed on the screen of mobile phones. During the investigation it was revealed that the co-accused Nilesh Rao disclosed that the co-accused Naresh Sajandas Roha was dealing in the illegal betting alongwith co-accused Vicky N. R., Rahul Bulane, Manish Gidwani, Ravi, Hitesh Farji, Rahul N. R. and Bunty N. R. Redmi mobile handset found in the custody of Nilesh Rao, a user was found saved as Dev Book 80 having mobile phone numbers 9371135080 and

9371135081. The photographs of Indian and South African cricketers were also visible and the QR codes appeared to have been shared for money transactions for betting. The screen shots were taken and its prints were obtained. It was revealed that all the accused were accepting bets preparing user ID and passwords and sending links of cricket betting application by using SIM cards of other persons. Some mobile phones and a SIM card of JIO company came to be seized. The panchanama was drawn up.

3. Learned advocate for the applicant submits that the applicant is falsely implicated in the crime. The charge-sheet is filed. The co-accused are released on bail. The learned advocate for the applicant prays to allow the application.

4. The learned APP strongly opposed the application and pointed out that the applicant has criminal antecedent and he was arrested in the Crime No.383/2022 registered at Hill Line Police Station, Ulhasnagar, Dist. Thane. The learned APP

further submits that there is a racket of such accused who are continuously betting of cricket illegally. Learned APP further pointed out that statements of witnesses and the role of the applicant that he used to convince the witness to participate in betting of cricket. Learned APP lastly prays to reject the application.

5. Perused the charge-sheet particularly statements of witnesses. Investigation is over. The applicant has roots in the society. The other co-accused have been released on bail. The trial would take long time. Considering all these aspects, the applicant is entitled for bail on the principle that bail is rule and jail is exception on certain stringent condition. Hence, the following order:-

ORDER

a] Bail application is allowed.

b] Applicant in connection with Crime No. 359/2023 registered at Azadnagar Police Station,

Dhule for the offences punishable under Sections 4 & 5 of the Maharashtra Prevention of Gambling Act, 1887 read with Sections 420 and 34 of the Indian Penal Code be released on bail on furnishing personal bond of Rs.1,00,000/- [Rupees One lakh only] with one surety of the like amount on following conditions:-

- i) The applicant shall not tamper with the prosecution evidence and shall not pressurize the prosecution witnesses, in any manner.
- ii) Applicant shall not enter into the entire Ulhasnagar, Dist. Thane except dates fixed for hearing of Sessions Case.
- iii) If any breach is committed by applicant, the prosecution/informant is at liberty to proceed further for cancellation of bail before trial court.
- iv) The learned trial court is at liberty

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to decide the application for cancellation of bail on merits without reference to this court.

v) Applicant shall not indulge in such type of criminal activities henceforth.

vi) If applicant is involved in such a nature of crime again, the prosecution /informant is at liberty to pray for cancellation of his bail before the trial court. The trial Court shall decide it on merit without reference to this Court.

[SANJAY A. DESHMUKH, J.]

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