

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 434 OF 2024

Shadaab Khateeb Khan	 Applicant
Versus	
The State of Maharashtra	 Respondent

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PATIL

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Mr. Shadab Khopekar, for the applicant.
Ms. Mahalakshmi Ganapathy, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 21st FEBRUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 516 of 2021 on 09/06/2021, registered at Oshiwara Police Station, Mumbai under sections 419, 420, 188, 269 r/w 34 of the Indian Penal Code and under section 25(A) of Indian Telegraph Act and Section 66-B, 66-C, 66-D, 72-A and 75 of the Information Technology Act.

2. Heard Mr. Shadab Khopekar, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the

State.

3. The FIR is lodged by PSI Vijayendra Ambawade. He was attached to Crime Detection Branch, Bandra (West). On 08/06/2021, he received an information that a call center by the name Altitude was operated in the flat No. 405 of Range Heights Building at Behram Baug, Link Road, Jogeshwari (West). Some medicines which were not permitted to be sold without prescription were being sold to the foreigners. The informant told about this information to his superiors. The police arranged to conduct the raid. One technology expert was called. Raiding party went to that call center. They found that one Rizwan was the team leader in that call center. Police asked him to show the permission and licence for conducting that call center. He did not have any certificate in the nature of telecommunication registration. He did not have any legal documents or permission to run that call center. All the equipments found in the call center were seized and the FIR was lodged.

4. The investigation was carried out and the charge-sheet

is filed. Since filing of the FIR the present applicant was absconding. The FIR itself mentions that when the police made inquiries with Rizwan, he informed that the call center was owned by one Riyaz Khan and the present applicant. He gave their mobile phone numbers.

5. Learned counsel for the Applicant submitted that except for the statement of one Ajay Sethi there are no other witnesses who have named the Applicant. The FIR is lodged in the year 2021. The Applicant is willing to co-operate with the investigation. He therefore submitted that the Applicant's custodial interrogation is not necessary.

6. Learned APP relied on the bank statement of the account maintained in the name of M/s Emerge BPO Services Pvt Ltd. The present applicant's email address was linked with this bank account. Money that was received in the business of this call center was deposited in this bank account.

7. I have considered these submissions. Statement of one

of the accused Ajay Sethi gave details about this business. He has stated that they had a contract with the call center by name M/s Emerge BPO Services Pvt Ltd. The present applicant was conducting that call center. Bank account mentioned herein above was in the name of Emerge BPO Services Pvt Ltd. This accused Sethi was accessible through his own email regarding the orders placed. If the foreign merchant sold those prohibited medicines to the foreign nationals, 25% of that amount was paid to that merchant, 20 to 22% amount was paid for shipping charges, 50 to 52% were paid to Emerge call center on that particular account and 2% commission was paid to this accused Sethi. He has stated that the call center was conducted by the present applicant and he used to pay the salary of employees and used to make payment for rent of the office. However, this accused was not knowing about the call center at Jogeshwari.

8. He has further stated that Rizwan and Aafseen were working for the present Applicant. Thus, the investigation revealed the role of the present Applicant as well as that of Rizwan and Aafseen. All of them are mentioned in the FIR. The link is

established between the call center at Jogeshwari and the Emerge call center. It was an illegal business, conducted without a licence. Therefore, though the learned counsel for the Applicant submitted that none of the customers has made complaints against the Applicant, from the very nature of the business, the offences as mentioned in the F.I.R. are made out. The medicines are sold without permission. The Applicant's custodial interrogation is necessary. He cannot be protected under Section 438 of Cr. P.C. The Application is rejected.

(SARANG V. KOTWAL, J.)