



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

CRIMINAL APPLICATION (ABA) NO. 296 OF 2024

Rakesh Kumar Pratap Rai Rajdev

Vs

The State Of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S. V. Manohar, Senior Advocate a/w. Shri Z. Z. Haq, Advocate for
applicant.

Mrs. D. I. Charlewar, APP for non-applicant/State.

CORAM :- M. W. CHANDWANI, J.

DATED :- 24.06.2024

Heard.

2. By the present application, the applicant seeks extra-ordinary relief of anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Crime No. 67/2023 for the offences punishable under Sections 420, 386, 468, 471 and 120B of the Indian Penal Code and Section 66(D) of the Information Technology Act, 2000 registered with Gittikhadan Police Station, District Nagpur.

3. The prosecution's allegations are that co-accused- Anant @ Sontu Jain enticed the complainant for betting in online game. The complainant started playing online game on the website Diamondexch.com and other online gaming sites as suggested by co-accused- Anant @

Sontu Jain. The complainant was provided with user-id and password of the said link and the points against payment made by the complainant. During the period from 18-11-2021 to 13.07.2023, the applicant lost about Rs.58 crores. The amount was given to co-accused- Anant @ Sontu Jain through bank accounts and by handing over cash to the person sent by him. It is the allegation of the prosecution that whenever the complainant used to win, a technical error would crop up in the site and he was not getting points, which were to be converted into rupees, even after it was shown that he has won. The gaming site was manipulated. Therefore, the aforesaid offences came to be registered against the applicant.

4. After rejection of the anticipatory bail application, co-accused- Anant @ Sontu Jain was arrested. During investigation, the involvement of the present applicant came to be revealed. The present accused used to provide a link for the online betting game site to co-accused- Anant @ Sontu Jain. Feeling apprehension of arrest, the applicant moved an application for anticipatory bail before the Sessions Court, which came to be rejected and now the applicant is before this Court for anticipatory bail.

5. Shri S. V. Manohar, learned Senior Counsel appearing on behalf of the applicant submitted that betting Apps are not illegal and there is no law till date

which prohibits online gaming. Therefore, even if the applicant provided the links of online betting sites to the complainant through co-accused – Anant @ Sontu Jain, no offence, whatsoever, is made out against the applicant.

6. The learned Senior Counsel submits that name of the applicant is not appearing in the First Information Report. There is no allegation of even conspiracy against the applicant. The applicant has been roped in the present crime only on confessional statement of co-accused- Anant @ Sontu Jain. Except confessional statement, there is no other material against the applicant showing his involvement in the alleged crime. The learned Senior Counsel submits that confessional statements are being extracted by the police officer by pressurizing the co-accused in custody. According to him, confessional statement of the co-accused is a weak piece of evidence and cannot be relied upon without any corroboration. To buttress his submission, he seeks to rely upon the decision in the case of *Parveen @ Sonu Vs. State of Haryana [2021 SCC Online SC 1184]*.

7. The State filed its reply contending that the applicant is actively participating in the commission of the present crime. The present applicant provided the illegal gaming link to the complainant through co-accused- Anant @ Sontu Jain. The applicant is absconding since long. During interrogation of co-

accused- Anant @ Sontu Jain, name of the present accused came to be revealed. The custody of the present applicant is necessary for progress in the investigation with regard to manipulation of gaming site used in commission of the present crime and various digital instruments are also required to be recovered. There is a possibility of the applicant having connection with foreign racket. Therefore, to unearth the truth, custodial interrogation of the present applicant is necessary. Hence, sought rejection of the bail application.

8. Having heard the learned Senior Counsel appearing for the applicant and Smt. Charlewar, learned APP for the State and having gone through the charge-sheet filed against the co-accused as well as the reply of the State, it is revealed that co-accused- Anant @ Sontu Jain used to provide link of online gaming site for betting alongwith user-id as well as password to the complainant and various other persons to play on the gaming site and there used to be exchange of money between the applicant and the persons who used to play game including the complainant on the points, won or lost on the said gaming website. The co-accused was a facilitator who used to provide user-id and password, on receipt of payment of money, to the complainant and various other persons. There are allegations of manipulation of the gaming site Diamondexch.com in the sense that when the complainant used to win, a technical error used to erupt in the website. Huge cash amount; and huge quantity of

gold and silver also came to be seized from the house of co-accused- Anant @ Sontu Jain. The various hired bank accounts are used for transaction even, various foreign mobile numbers were used in the commission of the crime.

9. During investigation, the name of the present applicant came to be revealed as the person behind co-accused- Anant @ Sontu Jain and this applicant used to provide him the link, user-id and password of the online game to be distributed to the complainant and other persons, which goes to show that the applicant is having connection with Diamondexch.com. Rather, the present applicant is one of the important links to reach the propounders/owners of Diamondexch.com and other online betting sites. Though, the charge-sheet has been filed against the co-accused but, the investigation with regard to manipulations/glitches in the online gaming site Diamondexch.com and other gaming Apps is still on and for want of custody of the applicant, the investigation could not be proceeded further in this direction.

10. The grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the Court must be circumspect while exercising such power for grant of anticipatory bail. Therefore, effective interrogation of the applicant will be of immense help to the prosecution for extracting useful

information to crack the offence or to unearth the truth. Thus, considering the material emerging from the charge-sheet as well as the case-diary, I am of the opinion that the applicant is required to be questioned in detail regarding various aspects of the crime including manipulation of gaming website Diamondexch.com.

11. The learned Senior Counsel would submit that the applicant is ready to co-operate in the investigation therefore, protection may be granted to the applicant with a direction to attend the concerned police station.

12. Let me state that arrest is a part and procedure of investigation to secure not only the presence of accused but, also to serve various other purposes. An accused may provide information leading to discovery of material facts, which enables the investigating agency to proceed without hindrance. Success in such an interrogation would elude, if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated.

13. The Court has to keep in view that a criminal offence is not just an offence against an individual, rather, the larger societal interest is at stake. Therefore, delicate balance is required to be established between the individual and societal interest. In the present case, not only the complainant but, various other persons are

victims, who have suffered a setback. Therefore, as stated above, detailed investigation is required. The applicant has antecedents and various cases under the Gambling Act and Indian Penal Code are registered against the applicant in the State of Gujarat.

14. There is no dispute to the legal position that to record conviction, the statement of co-accused requires corroboration. This principle is applicable to the Trial only. At the stage of investigation, statement of co-accused assumes significance to get a lead or a link in investigation of a crime and therefore, cannot be brushed aside at this stage. Therefore, the decision in the case of ***Parveen @ Sonu*** (supra) will not be helpful to the applicant. It is not expected at the stage of investigation that the Court shall insist for evidence establishing guilt of the accused.

15. The decision of the Supreme Court in the case of ***Nimmagadda Prasad Vs. Central Bureau of Investigation [(2013) 7 SCC 466]*** would be relevant here, wherein in para no. 24, the Supreme Court has held as under:-

“24. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words

"reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

16. Considering the material against the applicant and for getting a lead in the investigation, custodial interrogation of the applicant is very much necessary. Therefore, no case is made out for grant of extra-ordinary relief. On the contrary, if custodial interrogation of the applicant is not done, the crime with regard to manipulation of online betting/gaming website, will remain un-detected.

17. Therefore, the application stands rejected.

(M. W. CHANDWANI, J.)