



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 757 OF 2025

1. Anant Sheshrao Tekale,
Age:- 38 years, Occ.Agri,
R/o Tekali Galli, Degloor,
Tq. Degloor, Dist. Nanded
2. Abdul Faraj Abdul Ahmed,
Age:- 34 years, Occ. Business,
R/o Siddhi Galli, Degloor,
Tq. Degloor, Dist. Nanded
3. Santosh s/o Ravindra Kamble,
Age:- 32 years, Occ. Business,
R/o Ambedkar Nagar, Degloor,
Tq. Degloor, Dist. Nanded
4. Dhondiba s/o Chandu Gaikwad,
Age:- 34 years, Occ. Private Job,
R/o Khadi Hipparga, Madnur,
Tq. Madnur, Dist. Kammareddy.
5. Laxman s/o Ganpat Suravar,
Age:- 38 years, Occ. Private Job,
R/o Markhel, Tq. Deglur, Dist. Nanded
6. Sanjay Chandrayya Bandamwar,
Age:- 50 years, Occ. Private Job,
R/o Degloor, Tq. Degloor, Dist. Nanded.
7. Laxman s/o Dattatray Gutte,
Age:-35 years, Occ. Agri,
R/o Dagadwadi, Tq. Ahmedpur,
Dist. Latur
8. Balaji s/o Rajaram Chandawad,
Age:-36 years, Occ. Agri,
R/o Rajur (Bk), Tq. Degloor,
Dist. Nanded.

... Petitioners

Versus

1. The State of Maharashtra,
Through Superintendent of Police,
Latur, Tq. & Dist. Latur.
2. The Police Inspector,
Kingaon Police Station,
Tq. Ahmedpur, Dist. Latur.
3. Bhausahab s/o Babasaheb Khandare,
Age:- 41 years, Occ. Service,
R/o. Police Station, Kingaon,
Tq. Ahmedpur, Dist. Latur.

... Respondents
(Resp. No.3 Orig. Informant)

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Mr. Amol Chate, h/f Mr. Suraj P. Tiwari, Advocate for Petitioners.

Smt. P. R. Bharaswadkar, APP for Respondents.

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CORAM : **SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 11th August, 2025.

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

1 Heard the learned advocates for the respective parties.

2 This petition has been filed for the following reliefs:-

“A) By issuing appropriate writ, order or direction in the like nature of writ, kindly quash and set aside the impugned FIR bearing Crime No.0016/2025

registered with Kingaon Police Station, Dist. Latur on 06.02.2025 for the offences punishable under Section 4 and 5 of Maharashtra Prevention of Gambling, 1887 and Section 33 (1)(w)(i), 33 (1) (w) (xa) and 131 of Maharashtra Police Act and for that purpose necessary orders be passed.

- C) By issuing appropriate writ, order or direction in the like nature of writ, kindly direct the respondent No.1 Superintendent of Police, Latur to register an FIR against Respondent Nos.3 for falsely implicating the Petitioners in criminal case and for that purpose necessary orders be passed.
- D) By issuing appropriate writ, order or direction in the like nature of writ, to award compensation of Rs.1,00,000/- each to the Petitioners to be paid by respondent No.1 and 2/government after recovering the said amount from salaries of Respondent Nos.3 and accompanied police staff and for that purpose necessary orders be passed.
- E) By issuing appropriate writ, order or direction in the like nature of writ, directing Respondent No.1 to take action against Respondent Nos.3 and accompanied police staff for victimizing innocent citizens by holding a departmental inquiry against them and for that purpose necessary orders be passed.”

3 The informant averred in the report that he is serving as the Officer In-charge of Police Station Kingaon for the last two years. On 5th February, 2025, at evening hours, while patrolling in the

jurisdiction of the said police station alongwith the staff by Government Jeep, a secret information was received that some people are playing card on money on win lose basis in a tin-shed situated at village Dagadwadi near the Kingaon Toll Naka on the win and lose basis. The informant communicated the same to Mr. Manish Kalyankar, Sub-Divisional Police Officer, Ahmedpur, District Latur, and obtained his special authorization for effecting raid. Thereafter, the informant alongwith PSI Totevad, Police Head Constable Buckle No.626 Mahake, Police Naik Buckle No.133 Palmate, Police Naik Buckle No.1540 Deole, Police Constable Buckle No.215 Shrirame, and two *Panchas* proceeded to that place. They saw in that tin shed, six persons were playing card on money. One person was present there who was serving to them. On inquiry as to the ownership of that place, it was revealed that it belongs to petitioner No.7 (Laxman Gutte), resident of Dagadwadi. Upon questioning as to the nature of activities going on there, the serving person disclosed his name as Anant Tekale (petitioner No.1), resident of Tekale Galli, Degloor, District Nanded. He further stated that it is recreation centre and therefore, they are playing games on card there. However, upon inquiry about licence, it was revealed that neither any licence from the District Recreation Officer nor any authorization from competent authority to run it was obtained. The persons gambling on the card were the petitioners, who told their names on the inquiry of the informant.

4 The informant further averred that search of that place was taken in the presence of *Panch* witnesses and following articles and amounts were recovered:-

- From petitioner No.8 Balaji: Rs.120/- (one note of Rs.100/- and one note of Rs.20/-).
- From petitioner No.2 Abdul Faraj: Rs.150/- (three notes of Rs.50/-).
- From petitioner No.3 Santosh: Rs.70/- (one note of Rs.50/- and one note of Rs.20/-).
- From petitioner No.4 Dhondiba: Rs.100/- (two notes of Rs.50/-).
- From petitioner No.5 Laxman Suravar: Rs.150/- (three notes of Rs.50/-).
- From petitioner No.6 Sanjay: Rs.110/- (two notes of Rs.50/- and one note of Rs.10/-).

Further, the following articles were also found and seized from that place.

- One LED TV of VU Company, valued at about Rs.15,000/-.
- One CP Plus NVR, valued at about Rs.4,000/-.
- One CP Plus Switch, valued at about Rs.2,000/-.
- Six notes of Rs.20/- (total Rs.120/-) and 52 playing cards lying on the card table.

5 Those articles were sealed in separate packets in the

presence of *Panchas*. The seizure *Panchanama* was drawn. Thereafter, the report was lodged against all the petitioners, as they were gambling on card for money without sanction of the recreation officer.

6 The learned Advocate for the petitioners submitted that the petitioners are falsely implicated in the crime. Akash Social and Welfare Society for recreation of the people is in working condition. The petitioners are members of the said welfare society. The essential ingredients of Sections invoked are not establishing against the petitioners. The said place cannot fall under the definition of gambling house. The petitioners are illegally arrested and detained and even no food was offered to them and they were not allowed to go to answer the nature's call. No offence is made out against the petitioners. Respondent No.3 with *mala-fides* intention took the action against the petitioners. If the petitioners are compelled to face the trial, it would be an abuse of the process of the Court. It is lastly prayed to allow the petition as prayed.

7 The learned counsel for the petitioners relied upon the following authorities:-

- a) In ***The Cricket Club of India Ltd. and another Vs. State of Maharashtra and others (Writ Petition***

No.1389 of 2008), order dated 14th July, 2008, passed by the Division Bench this Court at Principal Seat, it is held that notice to close card club was illegal as the inquiry was made prior to sending notice.

b) In **Jaywant Balkrishna Sail & ors. Vs. State of Maharashtra & ors, 2012 (4) Bom.C.R.(Cri.) 18**, it is held that games of rummy etc. are games of skill and merely finding cards on table cannot be proof of gambling activity.

c) In **Vijeta Krida, Sanskrutik and Manoranjan Mandal Vs. State of Maharashtra and ors. (Criminal Writ Petition No.155 of 2014)** with connected matters, order dated 29th June, 2016, passed by the Division Bench this Court at Principal Seat, in paragraph No.4 it is held as follows:

“4. We observe that as long as the petitioners continue to carry on activities, which are in accordance with law, there is no need for police to interfere. But, in case there is reasonable ground with the police, then in such circumstances the concerned Agency would resort to appropriate steps to verify as to whether such social clubs are functioning in accordance with law.”

d) In **Gajendra Shivprasad Kedia Vs. State of**

Maharashtra and Another, 2017 DGLS(Bom.) 1518, in paragraph No.13 it is held as follows:-

“13. Documents filed on record shows that the petitioner is one of the members of the club. It is the case of the petitioner that they were playing Rummy. Game of Rummy is not a gambling as held in above cited decision.”

e) In ***Amol s/o. Narayan Lad and Others Vs. State of Maharashtra, 2022 DGLS(Bom.) 2672***, in paragraph No.7 it is held as follows:-

“7. There is no statement or material brought to our notice as to what was the nature of game allegedly played by the applicants. It is also not stated that the game allegedly being played was a pure game of chance and there was no skill involved.”

f) In ***Dyaneshwar Chandrakant Kadam and others Vs. The State of Maharashtra and another (Criminal Application No.811 of 2018)***, judgment dated 25th June, 2024, passed by the Division Bench this Court at Principal Seat, in paragraph No.14 it is held as follows:-

“14. All these documents makes it obvious that the object of establishment of the said Trust being for religious, social and cultural advancement.”

8 The learned APP for the respondents strongly opposed the petition. She submitted that the report is lodged after effecting of raid on the spot of incident in the presence of *Panchas*. There is CCTV footage showing actions of the petitioners prior to effecting raid, in which the petitioners are found while gambling on money there. The report was promptly lodged and when the search was taken, total cash and articles worth Rs.21,820/-. The articles of gambling were seized from the spot of incident. Petitioners' involvement in the said crime is *prima-facie* established from the record of the case. She prayed to dismiss the petition.

9 We have perused the petition and charge-sheet, particularly, the report and seizure Panchanama of the articles. In the report itself, the details of all the articles used for gambling are clearly stated. Those articles were seized in the presence of *Panchas*. The instruments used for gambling were found on the spot with an amount of Rs.21,820/-. There is no such licence with the petitioners to run the gambling house to establish the requirements of Section 4 of the Maharashtra Prevention of Gambling Act, 1977, which provides punishment to run gambling house without licence.

10 As far as gambling in common gaming house as per Section 5 of the Maharashtra Prevention of Gambling Act is

concerned, the essential ingredients are that, whoever finds in any common gaming-house for gaming, shall be held liable. Further, there is presumption under sub-section (2) of Section 5 that if any person is found in any common gaming-house, there shall be presumption that he was there for the purpose of gaming, unless contrary is proved. Ultimately, it is the matter of fact to be proved during trial.

11 As per Section 33(1)(w)(i) of the Maharashtra Police Act, the power is vested to the District Magistrate and Superintendent of Police for making rules and regulations for traffic and preservation of order in the public places with power to issue licence or control public places for amusement and entertainment.

12 As per Section 33 (1)(w)(xa) of the Maharashtra Police Act, provides for the registration of eating-house etc.. Thus, for running gaming house certificate of registration is necessary and it has to be renewed annually. In the case in hand, there is no such licence and certificate of registration with the petitioners to run that gambling house. The petitioners failed to establish that those were games of skill and no licence is required. There is *prima-facie* material establishing playing card on money. In such fact situation, we are of the view that there is reliable material, establishing essential ingredients of the provisions which are invoked against the petitioners,

to proceed further with the trial.

13 As far as the prayer of alleged illegal detention and compensation for it is concerned, first of all the illegal detention of the petitioners must be established. As discussed above, it is not established as alleged by the petitioners in the ground No.XII of their petition. Therefore, the petitioners are not entitled for compensation on the ground of illegal detention.

14 As discussed above, from the face value of the report, the seizure *Panchanama* and CCTV footage etc., the overt act of gambling on the part of the petitioners is establishing. Some doubts in the CCTV footage are pointed out, however, it cannot be considered at this stage as the material cannot be meticulously considered. It is a matter of fact and evidence to be proved or disproved during the trial. The defence of the fact cannot be considered and concluded in such proceeding for quashing and for that purpose conducting of full-fledged trial is necessary.

15 Nobody will dispute the ratio laid down in the authorities (cited supra) on behalf of the petitioners. However, each case must be decided on its own merit and the facts of the case are always decisive. In the case in hand, licence is not obtained by the petitioners to run

gambling house there. Hence, such case laws are not applicable to the case in hand.

16 Considering all the above aspects and reasons, we are not inclined to allow the petition by exercising our inherent powers under Section 528 of the BNSS as the abuse of the process of Court is not established by the petitioners.

17 The petitioners are not entitled for any of the reliefs. The petition, therefore, deserves to be dismissed. The criminal writ petition is dismissed.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]

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