



(1)

949 apl 981-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.981 OF 2025

Tanmay S/o Ramesh Band

Vs.

State of Maharashtra, through PSO Mankapur, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.V. Dhage, Advocate for applicant
Shri N.B. Jawade, APP for non-applicant/State.

**CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.**

DATED : 09.09.2025

Present application is filed by the applicant for quashing of the First Information Report bearing No. 130/2024, registered under Section 4 and 5 of the Maharashtra Gambling Act and charge-sheet bearing No. 142/2024.

2. The brief facts which are necessary for the disposal of the application are as follows :

The applicant is a resident of Mankapur, Nagpur, against whom the crime was registered vide Crime No. 130/2024 on an allegation that he was engaged in cricket betting activity. As per the case of the prosecution the complainant Shri. O.S. Sontakke API CIU Zone-2, Nagpur City has lodged a report on 06.04.2024 alleging that on 05.04.2024 around 8:00 p.m. while they were on petrolling duty as per order of DCP, Zone-2, Nagpur City, they received secret information that one person by name Amit Mishra and his associates were betting on TATA IPL 2024

T-20 Cricket Match between Chennai Super King and Sunrisers Hyderabad at the house of Amit Mishra with the help of Mobile phones and laptop and gambling with money. The said information was immediately communicated to the DCP, Zone-2, Nagpur on phone and as per their directions raid was conducted, then Senior P.I. Mankapur has called two panchas and then around 8:45 p.m., the police staff along with the panchas had conducted raid at the house of Amit Mishra situated at Chota Jamil Layout, Gulmohar Plaza, Mankapur, Nagpur, and station diary entry was taken to that effect. After conducting the raid on the said given address, the house was knocked and one person by name Amit Dinesh Mishra has came out of the house. The purpose of visit was explained by the complainant and the house search was taken as well as personal search of the accused was also taken. Present applicant was also found at the said spot handling the mobiles. On interrogation he has disclosed his name as Tanmay Ramesh Band. During raid, six mobile phones were seized from the accused Amit Mishra and one mobile was seized from the accused Raunak Khobragade and the present applicant and one mobile phone and laptop bag were seized from accused Mohd. Imran Mohd. Shafi. During personal search of the accused, cash of Rs.9500/- were seized from the accused Amit Mishra. On the basis of the said investigation, the crime was registered.

3. Present application is filed by the applicant for quashing of the First Information Report on the ground that except his presence nothing is on the record to show his involvement in the alleged offence. There is no specific averment as far as role of the present applicant is concerned. Except seizure of the mobile phone nothing is seized from him and, therefore, no

prima facie case is made out. In view of that, the First Information Report registered against him be quashed.

4. Learned Additional Public Prosecutor strongly opposed the same and submitted that during investigation the investigating agency has seized a mobile phone from the present applicant. During investigation it is revealed that the mobile handset-VIVO V29E of Amit Mishra live score of T-20 Cricket match between Chennai Super King and Sunrisers Hyderabad was found with changing rates in the Cricket line Guru App. Further, on the screen of Asus Laptop, in Shubh Labh 0542 App, the details of cricket match betting were found such as Amount, Rate, Favour, Party Name, CSK, HYD and in the column of party name, 16 names were found who were betting on cricket such as Dipu, Aman, Kartik, Moshin and on the right side of the screen CSK Vs. HYD 20 Run Display From along with RUN NP, RG, SR No, Amount, Rate, Run, od, Party Name and in the party name column, around 22 names were found such as Vishal, Rhumza etc. The screenshots of the Shubh Labh 0542 App from the laptop were taken. All the articles were sealed and seized in presence of the panchas. Co-accused Amit Mishra has disclosed that the Shubh Labh 0542 App in the laptop was provided to him by one Salman Meman and he has used to send the betting amount to said Salman Meman, upon which he used to receive some commission. The present applicant was also found along with co-accused involved in betting on cricket on 05.04.2024. Thus, at this stage there is a *prima facie* material against the present applicant. In view of that the application deserves to be rejected.

5. On hearing both the sides and on perusal of the recitals of the First Information Report as well as the investigation papers, there is no dispute that present applicant was arrested from the spot of incident. The letter addressed by the Police Constable to the Additional Police Commissioner shows the role of the present applicant and his presence at the spot of incident. The recitals of the First Information Report also show his presence at the spot of incident and one mobile phone was seized from him. The investigation papers further shows that the mobile handsets of the present applicant and the other co-accused were involved and used in a cricket betting. The sixteen names were found who were betting on cricket when the raid was conducted. Co-accused Amit Mishra who was in possession of handset Vivo V29E where a live score of T-20 cricket match between Chennai Super King and Sunrisers Hyderabad was found with changing rates. The investigating agency has conducted the spot seizure panchanama in respect of electronic equipment like a laptop and mobile phone with cash of Rs.9500/- as aforesaid. The various statements recorded during investigation also show involvement of the present applicant in the alleged offence.

6. Learned Counsel for the applicant placed reliance on the decision of this Court in ***Gajendra S/o Shivprasad Kedia Vs. The State of Maharashtra and another, 2017 SCC Online Bom 4176***. On going through the facts of the cited case, the facts of the present case and the cited case are not identical with the present case. Section 4 and 5 of the Act reads as under:

“4. [(1)] *Whoever-*

(a) *[opens, keeps or uses any house, room or place] for the purpose of a common gaming house,*

(b) being the owner or occupier of any such house, room or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,

(c) has the care or management of, or in any manner assists in conducting the business of, any such house, room or place opened, occupied, kept or used for the purpose aforesaid,

(d) advances or furnishes money for the purposes of gaming with persons frequenting any such house, room or place,

[[shall, on conviction, be punished] with imprisonment [which may extend to two years] [and may also be punished with fine]:

Provided that -

(a) for a first offence such imprisonment shall not be less than [three months and fine shall not be less than five hundred rupees;]

(b) for a second offence such imprisonment shall not be less than [six months and fine shall not be less than one thousand rupees; and]

(c) for a third or subsequent offence such imprisonment shall not be less than [one year and fine shall not be less than two thousand rupees.]

[(2) Nothing contained in the provisions of the Probation of Offenders Act, 1958 or in sub-sections (1), (4), (5) and (6) of section 360 of the Code of Criminal Procedure, 1973, shall apply to any person convicted under this section.]

5. [Whoever is found in any common gaming-house gaming or present for the purpose of gaming, [[shall on conviction be punished] with imprisonment which may extend to six months [and may also be punished with fine]]:

Provided that-

(a) for a first offence such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees;
(b) for a second offence such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees;
and
(c) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees.]”

Any person found in any common gaming-house during any gaming therein shall be presumed, until the contrary is proved, to have been there for the purpose of gaming. Thus, presumption in favour of the prosecution it is the accused who has to rebut the said presumption.

7. In view of the provisions of Sections 4 and 5 the involvement of the present applicant reveals as far as the offence committed under Section 5 is concerned. In view of that at this stage *prima facie* case is made out against the present applicant, and therefore, the application deserves to be rejected. Accordingly we pass the following order :

ORDER

The application is rejected.

(NANDESH S. DESHPANDE, J.) (URMILA JOSHI-PHALKE, J.)