

**Order below Exh.1 in Cri. Bail Application No.213/2022.**

{ Kailas Jogindarprasad Shah Vs. State }

This is anticipatory bail application under section 438 of the Criminal Procedure Code for grant of pre-arrest bail.

2. The present application is moved by the applicant-accused Kailas Jogindarprasad Shah praying to release him on anticipatory bail in connection with the CR No.59/2022 registered with Dindori Police Station under section 386 r.w.s.34 of the Indian Penal Code on 13.2.2022.

3. It is stated in the application that that applicant-accused has no way connected with the present crime. The allegations against him are that first informant was playing online Rolate gambling and other accused in the crime have instigated him to play the said gambling, subsequently he lost the money in the said gambling. They pressed him to play on the point without paying any money and if he would win, he may repay the said money and thus, he went on playing gambling, however, lost money in gambling. Thereafter, these accused have threatened to this first informant for recovery of the said amount. It is stated in the FIR that he lost Rs.75 lacs and the applicant-accused and other accused have extorted Rs.75 lacs from him and hence, FIR is lodged against this applicant-accused and other accused.

4. It is further stated that at the most offence under section 506 of IPC is attracted. The ingredients of section 386 of IPC are not attracted to this crime. The applicant-accused is permanent resident of Nashik. Police ought to have registered the

offence under section 12-(a) of the Prevention of Gambling Act, however, in order to give serious colour to the offence, they have added section 386 of IPC, these and other grounds set-out in the application, prayed to release on anticipatory bail. During the course of his argument learned counsel Shri. Rahul Kasliwal has relied upon following case-laws;

- i) **Ramjee Singh Vs State of Bihar 1987 Cri.L.J. 137**
- ii) **Siddharam Satlingappa Mhetre Vs State of Maharashtra and others in Criminal Appeal 2271/2010 decided on 2.12.2010.**

5. The State opposed the application. I.O. has submitted his report vide Exh.5.

6. Perused the report and case papers produced by the I.O. Heard both the parties.

7. On perusal of the record, it appears that first informant has tried to commit suicide by consuming poisonous substance and therefore, he was hospitalized at Rural Hospital, Dindori and thereafter in private hospital. His statement is on record. The other accused are already arrested by the police. They are in police custody. So far as role of the present applicant-accused is concerned, he is brain behind the said crime. He had sent his men to recover the amount from the first informant and therefore, first informant was under serious mental stress and fear and once tried to commit suicide as per investigation papers.

8. As per prosecution case, first informant has sold his everything, which he possessed and also borrowed the amount from various persons, his friends, relatives and ultimately he approached to

the police by filing the FIR as stated above.

9. Thus, the role of the present applicant-accused is visible. Police are required to conduct the investigation so far as allegation are concerned. So far as deciding the present anticipatory bail application section 386 of IPC is squarely applicable to the fact of present case. The case-laws relied upon by learned counsel Shri. Rahul Kasliwal is not helpful to the present fact of the case, in view of serious allegation against the applicant-accused. It is well settled position of law that FIR is not cyclopedia of offence. It is just information which requires to investigation officer to investigate the matter in respect of cognizable offence and thus, if the anticipatory bail application is granted, the entire investigation will be hampered. It is need not to repeat her that applicant-accused is previously involved in some criminal cases including under section 12(a) of the Gambling Act, section 306 of IPC, therefore, his modus operandi in committing the crime is required to be detected by the police. His custodial interrogation is necessary. Therefore, present anticipatory bail application is devoid of merit. Hence, following order is passed.

**ORDER**

- 1) Anticipatory Bail Application No.213/2022 is hereby rejected.
- 2) Inform to concern Police Station accordingly.

Date: 16.02.2022

( M. A. Shinde )  
Additional Sessions Judge-8,  
Nashik.