



2025:CGHC:2964

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRC No. 7197 of 2024

Order reserved on 19/11/2024

Order delivered on 16/01/2025

Mr. Nitish Diwan S/o Sanjeev Kumar Diwan Aged About 25 Years R/o Shop
No. 06, Gol Market, Vaishali Nagar, Bhilai, Durg, Chhattisgarh

... Applicant

-Versus-

State Of Chhattisgarh Through Additional Superintendent Of Police,
Economic Offence Wing/Anti Corruption Bureau, District Raipur,
Chhattisgarh

... Respondent

(Cause title taken from Case Information System)

For Applicant	:	Mr. Kishore Bhaduri, Senior Advocate along with Mr. Mohit Kumar, Advocate and Ms. Monika Singh, Advocate
For Respondent/State	:	Dr. Saurabh Kumar Pande, Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal

C.A.V. Order

1. This is the first bail application filed by the applicant under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the applicant who has been arrested on 12.06.2024 for the offence under Sections 420, 467, 468, 471, 201, 120-B of IPC, Sections 7 and 7A of the Prevention of Corruption Act 1988 and

Sections 4, 7, 8 and 11 of the Chhattisgarh Gambling (Prohibition) Act, 2022 and Section 4A of Public Gambling Act, registered at Economic Offence Wing/Anti-Corruption Bureau, Raipur, Chhattisgarh, in Crime No. 6 of 2024.

2. The prosecution case in brief is that, an FIR of Crime No. 112/2022 registered on 29.07.2022 at Police Station Mohan Nagar, Durg (C.G.) under Section 4A of the Public Gambling (C.G. Amendment) Act, 1976, which was registered against five accused persons, namely, Alok Singh Rajput, Rampravesh Sahu, Kharag @ Raja Singh, Abhishek and Pintu, under Section 4A of the Public Gambling (C.G. Amendment) Act, 1976 and Section 420, 120B of the IPC and also for Section 66D of Information Technology Act, 2000. The Enforcement Directorate had registered the Enforcement Case Information Report (hereinafter referred as 'ECIR') No. RPZ0/10/2022. On the secret information gathered by the officers of the ED, the raid was conducted on the premises of the accused persons in which it was found that a set with a laptop and they were collecting money by creating online IDs and through the said IDs they were placing bets for others through Mahadev Book, on Online cricket matches, horse racing, greyhound racing, kabaddi etc. Upon interrogation, the accused persons disclosed the names of two persons namely Abhishek and Pintu who taught them to procedure of creating the IDs and placing bets in various sports through the Mahadev Book. Initially, treating the FIR No. 112/2022 of P.S. Mohan Nagar, Durg and final report dated 29.07.2022 as scheduled/predicate offence, the respondent ED registered the ECIR No.

RPZO/09/2022 which was renumbered as ECIR No. RPZO/10/2022 vide corrigendum dated 07.11.2022 issued by the ED.

In the said ECIR, FIR No. 206/2023 dated 02.06.2023 registered at P.S. Cyber Crime Vishakhapatnam Commissionerate, Andhra Pradesh, FIR No. 37/2023 registered at P.S. Bhilai Bhatti, District Durg (C.G.), FIR No. 86/2023 dated 27.02.2023 registered at P.S. Chhawani, District Durg (C.G.), FIR No. 336/2023 dated 10.08.2023 registered at P.S. Gudhiyari, District Raipur (C.G.), FIR No. 685/2023 dated 11.08.2023 registered at P.S. Khamtarai, District Raipur (C.G.), FIR No. 6/2024 dated 04.03.2024 registered at EOW, Raipur (C.G.) and FIR No. 206/2020 dated 24.09.2020 registered at P.S. Burtola, Kolkata, West Bengal, have been included in the said ECIR.

On 20.10.2023, the ED filed its first prosecution complaint against 14 accused persons, alleging that the online gambling app in the name of Mahadev Online Book is established for illegal betting in different live games like; poker, card games, chance games, betting on cricket, badminton, tennis, football, etc. and also to provide facility for playing several card games like; teen patti, dragon tiger, virtual cricket games using cards, etc. It is also alleged that the Mahadev Online Book advertised about these betting websites through closed WhatsApp groups and Facebook pages.

During the investigation conducted by the ED, it comes in the investigation that the promoters of the Mahadev Online Book, namely Sourabh Chandrakar and Ravi Uppal, were running the said illegal

betting app through online mode and the tentacles of the online betting app have been spread wide enough and the promoters created a system of franchising the panels for illegal online betting app within the Indian territory as well as at abroad. The betting app is operated by various panel/branches, which are sold in a small franchise by the promoters Sourabh Chandrakar and Ravi Uppal through their associates. An elaborate system to receive incoming money from the betting user and also to pay them back as winning amount has been created in a well planned manner. They created a system that the betting user cannot directly pay money on the website and they need to contact on WhatsApp and deposit money into bank accounts in India, which have been obtained by the panel operators/promoters by way of deceiving and cheating the peoples. All centres will tag him with a panel, which will share the bank account details and create the user ID, allocate points/tokens etc. The promoters keep nearly 70-75% of the profit of the panel operations. A panel has an owner and workers who are usually four in numbers. One person can own multiple panels and there was no bar on number of panels being operated by one person. The head office is at Dubai who creates ID and password for the panel owners. The panel operator using the IDs can further create sub-IDs for player/punters. The IDs are generally created on multiple websites as depicted on the app of Mahadev online book. After receiving the details of panel, the players/punters deposit the minimum amount of Rs.100/- for online betting with no maximum amount. All the games are rigged in a manner that overall, the panel owners will not lose

money. During the investigation, multiple panel operators were raided, who were working under the Mahadev online book and it came on record that the said betting syndicate was generating proceeds of crime worth Rs.450 crores per month through the panel operations. It also came in the investigation that Sourabh Chandrakar and Ravi Uppal in the entire investigation to be the kingpin of the betting empire and indulge in money laundering with their associates. In the investigation, it also come that the said panel operations was running with active support and connivance of local police and politicians and after receiving illegal gratification, they supported the said illegal betting racket by closing their eyes. It also come that one ASI Chandrabhushan Verma who acted as Liaisoner for the Mahadev online book promoters with political executives of the Chhattisgarh State, who negotiated between them. He was collecting Hawala payments made available by the promoters of Mahadev book and distributing the same to the bureaucrats/politicians for ensuring smooth operations of the illegal betting websites. The funds have moved in and out of India to Dubai through various channels. Involvement of a number of persons were found during the investigation including the persons who engaged in layering the proceeds of crime.

The ED, during the investigation also caught hold the Hawala kings namely Anil Kumar Dammani and Sunil Kumar Dammani. The proceeds of crime generated by the main promoters are being layered and invested in order to acquire assets abroad. Large expenditure in cash is also being done in India for advertising the

betting websites to attract new users and franchises. During the investigation, raids/searches were conducted at various places through which the associates of promoters of Mahadev online book, individuals associated with them, event organizers, panel operators working on commission basis for Mahadev online book, family of the promoters of Mahadev online book, Hawala operators. A huge amount was seized and frozen during the searches.

During the investigation, it is also unveiled that ASI Chandrabhushan Verma was having role of Chief Liaison for Mahadev betting app in Chhattisgarh, Satish Chandrakar was operating Mahadev panel and distributing funds at the behest of Ravi Uppal, Anil Dammani and Sunil Dammani were knowingly distributing funds for Mahadev betting app, Bheem Singh and Aseem Das were involved in delivery of the Liaisoning money, Nitin Tibrewal was engaged in layering the proceeds of crime through his foreign entities and generation of illegal betting earning through sky exchange, Amit Agrawal for layering the betting earning in land transaction and Nitish Deewan for being involved in the betting operations and assisting the main promoters of Mahadev online book in their money laundering activities.

During the investigation the involvement of the present applicant is also found that he had played an active role in laundering of proceeds of crime generated out of illegal operations of Mahadev online book. He was holding assets in his name which was acquired by the benefits of Mahadev online book. He was fully aware of the

illegal operations of Mahadev online book and despite that he was holding bank accounts and operating these bank accounts for routing funds. During the investigation, the mobile phones of the present applicant was impounded in which various information was extracted. He was found to be holding shares of entities beneficially owned by promoters of Mahadev online book.

On 01.03.2024, the Enforcement Directorate have shared the information to the Deputy Inspector General of Police, Economic Offence Wing and Anti-Corruption Bureau, Raipur, Chhattisgarh under the provisions of Section 66(2) of the PMLA-2002 and disclosed the information about the ECIR No. RPZO/10/2022 and subsequent complaint filed by it. In the said information, it has been disclosed that the Mahadev online book has been running for illegal betting in different live games like poker, card games, etc. and the promoters of the Mahadev online betting app is regulating the said app from its head office at Dubai. The promoters have given franchisee of the said online betting app to various panel operators to manage the business on day-to-day basis. Along with the information, the ED annexed the documents available to them with respect to the involvement of the accused persons in the Mahadev online betting app.

On the basis of letter dated 01.03.2024, the EOW/ACB registered an FIR under the Crime No. 6/2024 on 04.03.2024 for the offence under Sections 120-B, 34, 406, 420, 467, 468, 471 of IPC, Sections 7 and 11 of Prevention of Corruption Act, 1988 (as

amended by amendment of the year 2018), in which the present applicant has been named along with other accused persons. The applicant is arrested on 12.06.2024 and charge sheet has been filed in the case.

3. Learned Senior Advocate appearing for the applicant would submit that the investigating agency has acted most arbitrarily and it had nothing, but ill-motivated and mala fide intention to implicate the applicant in offence. He is having no connection or association in any way either with the affairs of the business of Mahadev online book or has received the proceeds of crime. He would further submit that initially, the applicant was intercepted on 05.11.2023 at Delhi Airport and he was interrogated. His cell phone was seized by the ED and same was impounded on that very day, but no seizure memo was prepared at Delhi. The main allegation against the present applicant is that he is closed to Mr. Sourabh Chandrakar and he was interested with hiring Bollywood celebrities for different events of Mahadev Book. The applicant had gone to Dubai in search of work and in that process, the promoters of Mahadev Book had taken his ID cards and passport and he employed him. The name of the present applicant is not come in the statement of the witnesses that he too have in fault in illegal betting app. Except from the mobile phone extracts, no other evidence available in the case against the present applicant. Although the applicant denied the ownership of any property at Dubai, however there is no evidence that the said property was purchased by the applicant from the proceeds of crime. The extracted record from the mobile phone is inadmissible in evidence

for want of sufficient compliance under the Evidence Act. The applicant is an employee and engaged in work of issuing visas to various persons during their travel to Dubai and meeting the different Bollywood celebrities and get a chance to have a photo with them, are part of his employment. There is no person, who were cheated by the applicant. There is no evidence that the applicant conspired with the other co-accused persons. The applicant is in jail since 12.06.2024 and till date only the charge-sheet has been filed. Even the charges have not been framed and therefore, there is every possibility of delay in trial. The long period of incarceration and in view of the violation of his fundamental rights guaranteed under Article 21 of the Constitution of India, the applicant is entitled for release on bail.

In support of his submissions, he would rely upon the judgment passed by Hon'ble Supreme Court in **Satender Kumar Antil v. CBI and another**, (2022) 10 SCC 51, **Arvind Kejriwal v. Directorate of Enforcement**, order dated 12.07.2024 passed in Criminal Appeal No. 2493 of 2024, **Manish Sisodia v. Directorate of Enforcement**, 2024 SCC OnLine SC 1920, **Siddharth v. State of Uttar Pradesh**, (2022) 1 SCC 676, **Joginder Kumar v. State of U.P.**, 1994 Cr.L.J. 1981 and submitted that looking to the period of his custody, he is cooperative during the entire investigation and there is no possibility of tampering with the witnesses or document as the investigation has already been completed. Therefore, the applicant may be enlarged on bail.

4. Per contra, learned counsel for the State vehemently opposed the submissions of learned counsel for the applicant and has submitted that he is named accused in the said offence. He associated with Sourabh Chandrakar since 2020-21 and actively engaged in Mahadev Online Book while staying in touch with Sourabh Chandrakar, Ravi Uppal and Shubham Soni. The applicant was also a shareholder in several companies owned by Sourabh Chandrakar and his main work was to ensure to remove the hurdle between the panel operators/punters/players of betting. A company named Sports Buzz was also opened in Dubai. He would further submit that from the statement recorded under Section 161 CRPC of Vishal Dubey, Kapil Chelani, Vinay Kumar, Deepan Joseph and Kamal Chelani and also from their 164 CRPC statements, mobile analysis report and the memorandum statement of the applicant, the prima facie involvement of the applicant in the offence in question is made out. After due investigation, the police has filed charge sheet before the learned Special Court, Raipur on 19.07.2024 against 10 accused persons including the present applicant.

He would also submit that when the EOW/ACB received an information of cognizable offence, he has to register the FIR as per the direction issued by Hon'ble Supreme Court in case of **Lalita Kumari v. Government of Uttar Pradesh and Ors.** (2008) 7 SCC 164. The ECIR is not an FIR, but is a complaint. He would further submit that for commission of offence under Section 3 of PMLA, it is not necessary that a person must also commit the predicate offence. He would also submit that the involvement in the criminal activity is

the relevant consideration. A person can be held guilty in money laundering, even if he is not named in the scheduled offence. In support of his contention, he relied upon the case of **Vijay Madanlal Choudhary v. Union of India**, 2022 SCC OnLine SC 929. In the present case, the offence under the money laundering act is not akin to the offence of IPC or the Prevention of Corruption Act. The offence of money laundering is entirely different from the offence of cheating or forgery of the valuable security/document. He would also relied upon the judgment passed by the Hon'ble Supreme Court in the matter of **State Through CBI v. Anil Sharma**, (1997), 7 SCC 187, in which the Hon'ble Supreme Court has considered that the custodial interrogation is a qualitative method of interrogation and ED has only shared certain information with the EOW/ACB, and it is for the EOW/ACB to interrogate the allegations of the information. Therefore, there is need to arrest to the applicant and to interrogate him. While considering the bail application, the allegations in the charge sheet against the applicant is the relevant consideration and the role of the accused and also the prima facie evidence available against him. In the present case, there is sufficient evidence available against the present applicant that he is involved in the alleged offence and looking to the seriousness of the offence, he is not entitled to be released on bail.

5. I have heard learned counsel for the parties and perused the material placed in the present case by both the parties.

6. For consideration of the bail application of the applicant, the Court need not go deep inside the merits of the case, but should consider the prima facie material against the accused in the case. The Hon'ble Supreme Court in the matter of **Vijay Madanlal Choudhary** case (supra) has observed in para 401 of its judgment that:-

"401. We are in agreement with the observation made by the Court in **Ranjitsing Brahmajeetsing Sharma [(2005) 5 SCC 294]**. The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the Court based on available material on record is required. The Court will not weigh the evidence to find the guilt of the accused which is, of course, the work of Trial Court. The Court is only required to place its view based on probability on the basis of reasonable material collected during the investigation and the said view will not be taken into consideration by the Trial Court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial. As explained by this Court in **Nimmagadda Prasad [(2013) 7 SCC 466]**, the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt."

7. In the case of **Satish Jaggi Vs. State of Chhattisgarh**, (2007) 11 SCC 195, the Hon'ble Supreme Court has held that "at the stage of granting of bail, the Court can only go into the question of prima facie case established for granting bail, it cannot go into the question of credibility and reliability of witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during trial."
8. In the present case from the statement of Vishal Dubey, it reveals that in the year 2021, when he went to Dubai on call of Sourabh Chandrakar, he introduced him with the present applicant, who was

working with them and associated with Mahadev Online Book. From the statement of Kapil Chelani, it reveals that the present applicant had gone to Dubai along with Sourabh Chandrakar in the year 2020 and started operating Mahadev Online Book. He also disclosed the procedure of operating Mahadev Online Betting App and receiving the proceeds of crime. He also disclosed that the present applicant was managing the tickets and visas of the guests of Sourabh Chandrakar and other promoters. Sourabh Chandrakar has opened a company named as Sports Buzz at Dubai in the name of present applicant. He also actively participated the IIFA Awards 2022. From the statement of Deepan Joseph, it also comes on record that the present applicant Nitish Diwan was engaged in managing the tickets and visas from India to Dubai for the persons, who associated with Mahadev Online Book and its promoters. From the statement of Vinay Kumar, Kamal Chelani, Vishal Dubey, it comes that the present applicant is engaged in extracting the proceeds of crime by actively participated and associated with the promoters of Mahadev Online Book. There is sufficient evidence against the applicant to prima facie come into conclusion that he involved in the offence.

9. The Hon'ble Supreme Court in the case of **Y.S. Jagan Mohan Reddy Vs. CBI**, reported in (2013) 7 SCC 439 has held in para 34 and 35 of its judgment that

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country

as a whole and thereby posing serious threat to the financial health of the country.

35. 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.

10. Hon'ble Supreme Court in the matter of **Vijay Madanlal Choudhary** (supra) has observed in para 398 as under :-

"398. Thus, it is well settled by the various decisions of this Court and policy of the State as also the view of international community that the offence of money-laundering is committed by an individual with a deliberate design with the motive to enhance his gains, disregarding the interests of nation and society as a whole and which by no stretch of imagination can be termed as offence of trivial nature. Thus, it is in the interest of the State that law enforcement agencies should be provided with a proportionate effective mechanism so as to deal with these types of offences as the wealth of the nation is to be safeguarded from these dreaded criminals. As discussed above, the conspiracy of money-laundering, which is a three-staged process, is hatched in secrecy and executed in darkness, thus, it becomes imperative for the State to frame such a stringent law, which not only punishes the offender proportionately, but also helps in preventing the offence and creating a deterrent effect."

11. Having considered the rival submissions made by respective parties, as also from the material produced in the present case, it is not acceptable that the present applicant did not know about the transactions of Mahadev online book and the money obtained by him. Denial by the applicant itself is not sufficient to consider prima facie that there is no mens rea of the applicant for the said offence either under the IPC, Chhattisgarh Gambling (Prohibition) Act, 2022 or Public Gambling Act, 1867 or under the Prevention of Corruption Act.

Although the statements of the witnesses are required to be tested at the time of trial, but for the purpose of consideration of bail application, the statements of the witnesses are relevant for consideration of bail application of the applicant.

12. As has been discussed hereinabove, it cannot be said that there is no involvement of the applicant in the offence in question. Considering the role of the applicant in obtaining the money through illegal source, which is the proceeds of crime in the Mahadev book app, it is found that there is sufficient evidence collected by the EOW/ACB to prima facie show the involvement of the applicant in the alleged offences. It is an organized crime having various facets of its complexion, therefore, further considering the nature of offence and material collected during the investigation, this Court is satisfied that there is prima facie evidence for believing that the applicant is involved in the offence, therefore, I am not inclined to release the applicant on bail.
13. Consequently, the present bail application filed by the applicant- **Nitish Diwan** is rejected.

Sd/-
(Ravindra Kumar Agrawal)
Judge