



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 824 OF 2025

Jayashree Santosh Jadhav
M/s. Sanveda Cotton Industries (Proprietor)
Age :- 30 years, Occ. Business,
R/o Sarala, Tq. Shrirampur,
Dist. Ahmednagar.

..APPLICANT

-VERSUS-

1. The State of Maharashtra
Police Station Officer,
Rahata Police Station,
Tq. Rahata, Dist. Ahmednagar.
2. The Superintendent of Police,
Ahmednagar, Dist. Ahmednagar.

..RESPONDENTS

WITH

ANTICIPATORY BAIL APPLICATION NO. 821 OF 2025

Santosh Vasantao Jadhav
Age :- 40 years, Occ. Agri.,
R/o Sarala, Tq. Shrirampur,
Dist. Ahmednagar.

..APPLICANT

-VERSUS-

1. The State of Maharashtra
Police Station Officer,
Rahata Police Station,
Tq. Rahata, Dist. Ahmednagar.
2. The Superintendent of Police,
Ahmednagar, Dist. Ahmednagar.

..RESPONDENTS

WITH
ANTICIPATORY BAIL APPLICATION NO. 823 OF 2025

Santosh Vasantao Jadhav
Age :- 40 years, Occ. Agri.,
R/o Sarala, Tq. Shirampur,
Dist. Ahmednagar.

..APPLICANT

-VERSUS-

1. The State of Maharashtra
Police Station Officer,
Rahata Police Station,
Tq. Rahata, Dist. Ahmednagar.
2. The Superintendent of Police,
Ahmednagar, Dist. Ahmednagar.

..RESPONDENTS

WITH
ANTICIPATORY BAIL APPLICATION NO. 822 OF 2025

Akshay Uttam Thorat
Ms. Akshay Agro Industries (Proprietor)
Age : 28 years, Occ : Business,
R/o Murshadpur, Tq. Vaijapur,
Dist. Sambhajinagar.

..APPLICANT

-VERSUS-

1. The State of Maharashtra
Police Station Officer,
Rahata Police Station,
Tq. Rahata, Dist. Ahmednagar.
2. The Superintendent of Police,
Ahmednagar, Dist. Ahmednagar.

..RESPONDENTS

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Mr. R.R. Karpe, Advocate for Applicants
Mr. K.K. Naik, APP for Respondents-State
Mr. V.D. Hon, Senior Advocate h/f Advocate Mr.A.V. Hon,
learned counsel for assist to PP

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CORAM : ROHIT W. JOSHI, J.
(Vacation Court)

DATE : 30th MAY, 2025

Per Court :

The applicant in ABA No.824/2025, Jayshree is wife of applicant in ABA No.821/2025 Santosh. The applicants will be referred by their names hereinafter and together as applicants.

2. The applicants in A.B.A. No.824/2025 and A.B.A. No.821/2025 are arrayed as accused nos.2 and 3 in F.I.R. No.0546/2024 registered with Rahata Police Station, Tq.Rahata, Dist.Ahmednagar on 26.11.2024, for the offences punishable under Sections 420, 120-B, 408, 409, 467, 468, 471, 474 read with 34 of the Indian Penal Code (IPC).

3. The applicants in A.B.A. No.822/2025 and A.B.A. No.823/2025 are arrayed as accused nos.1 and 3 in F.I.R. No.0547/2024 registered with Rahata Police Station, Tq.Rahata, Dist.Ahmednagar on 26.11.2024, for the offences punishable under Sections 420, 120-B, 408, 409, 467, 468, 471, 474 read with 34 of the Indian Penal Code (IPC).

4. The informant - Umesh is Branch Manager of Kopargaon Peoples Co-operative Bank Ltd., Kopargaon, Puntamba branch (Hereinafter referred to as "informant - bank"). The informant - bank has filed an application seeking permission to assist prosecution, which came to be allowed vide order dated 20th March, 2025.

5. Jayshree is a proprietor of a business undertaking, named, Sanveda Cotton Industries, which is engaged in business of ginning and pressing of cotton. The said undertaking had taken loan of Rs.2,61,85,000/- from the informant-bank. This loan amount was disbursed by the informant-bank to Sanveda under eleven separate loan cases. The loan was disbursed against security of cotton bales kept by Sanveda in Warehouse of Central Warehousing Corporation at Puntamba ("hereinafter referred to "CWC, Puntamba") between 02.05.2022 to 05.05.2022. The security was created on the basis of electronic Negotiable Warehouse Receipts (eNWRS) issued by CWC, Puntamba. The informant- bank states that since the loan was not repaid for an inordinate period, the informant-bank took samples of the cotton bales

deposited by Sanveda with the said Warehouse and sent it for testing to laboratories at Aurangabad and Mumbai. It is stated that both the laboratories stated that the samples were not even worth testing. In this backdrop, the informant-bank states that it had approached respondent no.1 - police station with a complaint regarding offence of cheating, criminal breach of trust and fabrication of documents, however, respondent no.1 did not register offence in response to the complaint lodged by the informant-bank. It is stated that thereafter the informant had also issued letter to the Superintendent of Police/respondent no.2 for registration of offence, however, even thereafter the offence was not registered. In such circumstances, the informant-bank filed an application under Section 156(3) of the Code of Criminal Procedure in the Court of Judicial Magistrate, First Class, Rahata. The said application came to be registered as Criminal Misc. Application No.217/2024. The learned Magistrate allowed the said application vide order dated 14.11.2024, *inter alia*, directing respondent no.1 - police station to register F.I.R. and investigate the matter in accordance with law. Pursuant to the said order dated 14.11.2024, the above FIRs came to be registered on 26.11.2024.

6. Applicant - Akshay in ABA No.822/2025 is sole proprietor of a business concern named, Akshay Agro Industries. He is arrayed as accused along with applicant Santosh in FIR No.0547/2024. Akshay is close relative of Santosh. Akshay Agro Industries has taken loan to the tune of Rs.1,44,60,000/- from the informant bank from 27.04.2022 to 23.05.2022. This loan amount is taken under four separate loan cases against security of cotton bales deposited with CWC, Puntamba, the security being created on the basis of eNWRs. In this matter also the bank has drawn samples and has forwarded the same for analysis and the samples are returned by both laboratories for the same reason i.e. the samples are not even worth testing. In this case too the respondent no.1 refused to take cognizance of offence despite complaint being lodged and letter sent to Superintendent of Police also did not yield positive result, as a consequence of which the bank filed application under Section 156(3) of Cr.PC., being Criminal Misc. Application No.216/2024, which came to be allowed vide order dated 14.11.2024, pursuant to which above F.I.R. No.547/2024 came to be registered.

7. In both these matters, the borrowers have not paid even single payee back to the informant.

8. In both these FIRs, the informant-bank has alleged that the applicants had deposited cotton of extremely inferior quality with the CWC and on the basis of deposit receipt issued by CWC obtained loan from it with an intention not to repay the same and thus, they have committed offence as aforesaid. As regards the officials/employees of CWC, it is stated that it was duty the concerned Officers/employees to check the quality and quantity of material deposited and then to issue deposit receipt. It is alleged that the concerned Officers/Employees have acted in collusion with the applicants and have issued false receipts. As regards Santosh, it is alleged that although Jayshree is proprietor of Sanveda, Santosh, her husband was actively involved in the business activities of Sanveda.

9. At this juncture, it is necessary to refer to provisions of the Warehousing (Development and Regulation) Act, 2007 (Hereinafter referred to as "Warehousing Act"). The act provides for development and regulation of warehouses as

also negotiability of warehouse receipts and establishment of authority named Warehousing Development and Regulatory Authority. In common parlance Warehouses are big Godowns, where goods are deposited. Section 2(s) of Warehousing Act provides the definition of the term "Warehouse". As per the definition, Warehouse means any premises wherein a warehouseman takes custody of goods deposited from depositors of the goods. The term "Warehouseman" is defined in Section 2(v) of the Act, which means any person to whom certificate of registration with respect to warehouse/s is granted by the authority under the Act. While goods are deposited in a warehouse, a receipt is issued to the depositors, which is referred as "warehouse receipt". The term "warehouse receipt" is defined in Section 2(u) of the Act. It means a acknowledgement in writing or electronic form issued by a warehouseman or his authorized representative acknowledging receipt of goods for storage. It needs to be mentioned that warehousing receipts are of two types, viz:- negotiable and non-negotiable. The goods deposited in the negotiable warehouse receipts can be delivered on demand either to the depositor or at his instance to any person in whose favour endorsement for the purpose of negotiation of

goods has made. The person, who deposits the goods with a warehouse is called as "depositor" and the said term is defined under Section 2(d) of the Act. Warehouse Receipts must enumerate the ingredients specified under Section 11 of the Act. The provision contemplates that warehouse receipts must be issued by specifying particulars with respect to quantity and quality or its grade along with its shelf life and market value. The warehouse receipts are issued by the Warehouseman.

10. The allegation of informant - bank is that in view of section 11 of the Warehousing Act, it believed that the contents of warehouse receipt issued by the CWC, Puntamba with respect to cotton bales deposited by Sanveda and Akshay Agro were correct and relying upon the contents of the said receipts, loans were advanced by it to Sanveda and Akshay Agro for amount equal to 50% of the declared value of the cotton bales. The informant states that it is routine practice that loans are advanced to person against warehouse receipts for an amount equal to 50% of the declared value of the goods deposited with CWC. The informant states that believing upon the contents of the receipt regarding quality/grade of cotton

bales, it had advanced loan of Rs.2,61,85,000/- to Sanveda and Rs.1,44,60,000/- to Akshay Agro.

11. As stated above, since Sanveda and Akshay Agro did not repay the loan amount, the informant - bank took samples of the cotton bales deposited by them with CWC, Puntamba and forwarded the same for testing to laboratories at Mumbai and Aurangabad. The laboratories expressed that the samples were of extremely inferior quality and as such, the contents of samples could not be tested. The allegation of informant is that knowing fully well that the quality of cotton is extremely poor, the applicants deposited the same with CWC, Puntamba and the Officers/Employees at CWC, Puntamba also acting in collusion with the applicants issued false warehouse receipts recording incorrect standard with respect to quality/grade of cotton bales.

12. It will be pertinent to mention that informant-bank has alleged that initially Sanveda had obtained loan of Rs.80,00,000/- from the main branch of the informant-bank. It is stated that the said loan was not paid and thereafter the loan of Rs.2,61,85,000/- was taken from Puntamba branch. It

is alleged that the loan was taken with an intention not to repay the same, and therefore, receipts recording incorrect contents were obtained from CWC, Puntamba.

13. Mr. Karpe appearing for the applicants in the above matters contends that offence under the provisions of the Indian Penal Code could not have been registered against the applicants. His contention is that provisions of Warehousing Act are a complete Code, and therefore, provisions of the IPC cannot be invoked for any action which is an offence under the said Act. Mr. Karpe has referred to Sections 43 and 45 of the Warehousing Act. He contends that the allegation of the informant - bank, in sum and substance, is that the declared value of goods delivered by applicants with CWC, Puntamba was incorrect, which is an offence under Section 43(5) of the Warehousing Act. He then contends that cognizance of offence punishable under Section 43 can be taken only on a complaint made by the authority under the Act or by any officer authorized in this regard by the authority. He, therefore, contends that taking cognizance of offence and registration of FIR is barred having regard to the provisions of the Warehousing Act. He further elaborates that special

provisions of Warehousing Act will exclude applicability of IPC, which is a general law.

14. As regards merits of the matter, Mr. Karpe contends that declared self life of the cotton bales was three months only. The cotton bales were deposited with CWC in between March, 2022 to May, 2022 and the samples were sent for testing after expiry of self life. He, therefore, contends that the reliance cannot be placed on the laboratories test report to contend that cotton bales were not of the desired quality/grade when the same were deposited by Sanveda and Akshay Agro with CWC, Puntamba. He states that cotton bales is a perishable commodity and degradation of the same with passage of time is very natural and also obvious.

15. In the alternate, he contends that it is improbable that the alleged offence was committed without connivance or of knowledge of the Officers of the CWC and informant-bank. He argues that the applicants cannot be singled out and held responsible for the entire alleged wrong done. He states that the prosecution has not registered any offence against any officer/employee either of the CWC or the bank.

16. He lastly contends that Sanveda and Akshay Agro are proprietorship concerns of Jayshree and Akshay. Santosh, who is husband of Jayshree and a close relative of Akshay has no concern with the said businesses. He argues that merely because Santosh happens to be husband of Jayshree and relative of Akshay, he cannot be held responsible for the alleged offence.

17. He sums up the submissions contending that no offence is made out in the facts of the case; dispute between the parties is a civil dispute; offence, if any, is made out only under Section 43 of the Warehousing Act and cognizance of the same by FIR is barred in view of Section 45 of the said Act; and lastly that custodial interrogation of the applicants is not necessary since all the documents pertaining to alleged offence, such as, bank statements, loan agreements, warehouse receipts etc., are already available with the informant and the prosecution. As stated above, as regards Santosh he contends that he has absolutely no connection with the business of Sanveda or Akshay Agro and this is additional reason for allowing the application for anticipatory

bail filed by him.

18. Per-contra, the learned APP contends that there is deep routed conspiracy involved in the matter. He states that with a clear *mens rea* of cheating the bank, the applicants have deposited material of sub-standard quality in order to obtain loan from the bank with a clear intention not to repay the same. He contends that foul intention not to repay the loan is existed since inception while depositing the material of inferior quality and obtaining loan against eNWRs for the said material. He states that the provisions of IPC are squarely applicable and are clearly attracted in the facts of the case and involvement of the applicants is also apparent. He contends that custodial interrogation of the applicants is necessary having regard to the nature of the offence.

19. Mr. Hon, learned Senior Advocate appearing for the informant states that the provisions of Warehousing Act will not oust the applicability of IPC Sections. He contends that Section 43(5) only provides for punishment in a case where depositors declares value of goods which is not proper value according to him. He contends that offence of cheating,

criminal breach of trust, falsifying documents, etc., are independent offences, for which there is no corresponding provision under Warehousing Act. He also contends that in the present matter, Section 120B is also invoked which is an offence by itself. Mr. Hon states that it is a general practice that bank offer loans to borrowers against warehouse receipts. This according to him is also legally permissible. He contends that people engaging in business of cotton bales and ginning and pressing had adopted *modus operandi* of dumping material of extremely inferior quality and obtaining warehouse receipts recording that product is of superior quality/grade resulting in enormous enhancement of rate of goods and based on false declaration loan is obtained from the banks and financial institutions against deposit of eNWR. He contends that the cotton bales deposited by the applicants with CWC, Puntamba were of extremely inferior quality so much so that the laboratories were not even in a position to process the same for testing. He states that the applicants Jayashree, and Santosh are habitual and willful defaulters. He states that on earlier occasion also the said applicants had obtained loan of Rs.80,00,000/- from main branch and did not repay the same. Thereafter, they obtained further loan of

Rs.2,61,85,000/- from Puntamba branch by adopting aforesaid modus-opeandi. He contends that intention to obtain loan and not to repay the same from the very inception of the transaction is prima facie apparent on the face of record. He contends that the offence is fiscal offence which needs to be viewed differently from the regular offences. He states that custodial interrogation of the persons is extremely essential in the cases like the present matters. As regards the role of Santosh, he contends that although Jayshree and Akshay are proprietors of the business undertakings, Santosh is actively involved in both the businesses and is equally responsible for the offences punishable.

20. It cannot be disputed that as of now the cotton bales are certainly of a very poor grade. The quality of the product is such that two laboratories have expressed inability to process the samples for analysis. Perusal of the order passed by the learned Magistrate indicates that NSL Cotton Corporation has stated in its letter that the samples of cotton bales forwarded for testing could not be tested as it comprised only of dust and garbage. This prima facie throws light on the intent of the applicants in depositing consignments with CWC

Puntamba and obtaining loan against the eNWRs. The said material is prima facie sufficient to indicate some foul play on the part of the applicants. It needs to be stated that the applicants, Jayashree and Santosh have history of taking loan and defaulting in making the repayment of the same. The material on record indicates that earlier also a loan of Rs.80,00,000/- was taken by the said applicants and they have defaulted in repayment of the same. In the present transaction loan of Rs.2,61,85,000/- and Rs.1,44,60,000/- is obtained against eNWRs issued purportedly for cotton bales and the samples drawn indicates that the consignment comprised of dust and garbage.

21. As regards the role of Santosh, although he is not proprietor of Sanveda and Akshay Agro, it is undisputed that his wife Jayshree is proprietor of Sanveda and he is close relative of proprietor of Akshay Agro. It appears from the record that the stamp papers for the loan case of Sanveda were purchased in the name of Santosh. The learned Sessions Court while rejecting the application for grant of anticipatory bail has recorded that there are multiple entries of transfer of huge amounts from account of Jayshree and Akshay to the

account of Santosh. Likewise, the factory for pressing of cotton stands in the name of Santosh. Santosh has obviously taken active part in the business of Sanveda and Akshay Agro. It is also found that Santosh was operating account of Akshay Agro Ltd., which indicates that he was also actively involved in the business of Akshay Agro Ltd.

22. It is also observed by the learned Sessions Judge that Santosh has created bills showing sale of cotton bales by Sanveda Cotton Industries to Akshay Agro Ltd. These two factors are also relevant for two purposes, firstly, it shows involvement of Akshay in the business of Sanveda and secondly, the GST account number mentioned in the bills was closed long before issuance of the bills.

23. All these facts will indicate that there is much more than what meets the eye in the present matter. It is well known that fiscal offences stand apart from regular offences. Penal offences are entrenched in deep rooted and well sought out conspiracies. Plans which are chalked out in detail are executed and implemented by co-conspirators. Therefore,

when it comes to investigation of fiscal offences, custodial interrogation of the accused becomes extremely important and essential to enable investigating agency to unearth the facts involved in commission of offence.

24. It is well settled that the Courts should be extremely slow in allowing the applications for anticipatory bail in crimes relating to financial matters. This Hon'ble Court in the matter of ***Vishwanath S/o Vasudev Yadnik Vs. The State of Maharashtra and anr (ABA No.21/2020)***, has held that economic offences stand as a different class as they affect the economic fabric of the society. Referring to the several judgments of the Hon'ble Supreme Court on the point, it is observed that an economic offence is committed in a cool calculated manner with deliberate design to profitable at the cost of society at large. It is further held that grant of anticipatory bail is not a matter of right and particularly in economic offences, Investigating Agency must be given opportunity of custodial interrogation of the accused. It will be profitable to reproduce paragraph no.83 of the judgment in the context of the present matter, which reads as under :-

“83.Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent-Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail.”

25. As regards the provisions of Warehousing Act, Section 43(5) only provides for punishment in case where a depositor declares value of goods delivered by him for storage, which he does not believe to be proper value. The bar under Section 45 is attracted only for cognizance of offence punishable under Warehousing Act. It cannot be invoked in cases where IPC sections are also involved.

26. Apart from Sections 43 and 45, Mr. Karpe, learned Advocate for the applicants has also placed reliance

on Section 53 of the Warehousing Act to contend that the said Act has overriding effect over all laws, and therefore, provisions of the IPC will not be attracted since the provisions of Warehousing Act are complete Code in itself. This Court unable to agree with the contention raised by Mr. Karpe. Perusal of Section 43(5) will indicate that it does not include the ingredients of offence of cheating, criminal breach of trust, forgery, falsification of documents, etc. Apart from this, it is well settled that offence of criminal conspiracy punishable under Section 120-B of the IPC is an offence by itself. It is contention of the applicants that the offence could not have been committed without connivance and collusion of concerned persons from CWC, Puntamba as also informant-bank. The offence is also registered under Section 120-B. It is well settled that in cases where wrongful act/s gives rise to offence under special law as also under the provisions of IPC, offence can be registered under the special law as well as general provisions of the IPC. The Hon'ble Supreme Court has taken a consistent view that same set of facts may give rise to different offences under separate enactments. It is held that in such cases, separate prosecution can be initiated for punishment under both the enactments. It has further held

that unless the provisions of the special enactments are materially the same as the provisions of IPC, prosecution under both the enactments will be permissible. In the matter of *State of Uttar Pradesh Vs. Aman Mittal and another* reported in *2019(19) SCC 740*, a contention was raised on behalf of the accused that in view of Sections 3, 5 and 51 of the Legal Metrology Act, prosecution under the provisions of Sections 264, 267 and 415, 467, 468, 471 read with 34 and 120-B of the IPC was not maintainable. The Hon'ble Supreme Court has held that the provisions of the Legal Metrology Act and that of Sections 264 to 267 of the IPC bear close resemblance, and therefore, prosecution with respect to the said provisions could not be continued. It is, however, held that for other sections of IPC mentioned above, it was perfectly legal to continue with the prosecution along with the provisions of the Legal Metrology Act. The Hon'ble Supreme Court has considered earlier decisions on the point while reiterating the said legal position.

27. In view of the aforesaid, this Court is of the considered opinion that Section 43(5) read with Section 45 and Section 53 of the Warehousing Act will not exclude

applicability of the provisions of the IPC. The contention of Mr. Karpe, with respect to applicability of provisions of IPC is liable to be rejected.

28. Having regard to the nature of the offence and peculiar facts, this Court is also of opinion that the applicants have failed to make out a case for grant of anticipatory bail. The applications, are therefore rejected.

[ROHIT W. JOSHI, J.]