MHNG010083042011	**Special Case No.31/2011** **Central Bureau of Investigation** **..vs..** **Sanjay Gajanan Hedaoo and others**

ORDER BELOW EXH.48

(Passed on 6th August 2026)

1] This is an application for discharge under Section 227 of the Code of Criminal Procedure, by the accused No.1 Sanjay Gajanan Hedaoo.

2] The facts giving rise to this proceeding are summarized as below:

A) The accused No.1 Sanjay Gajanan Hedaoo was the Deputy Director of the Khadi and Village Industries Commission (herein after 'the KVIC'). Accused No.2 Sunil Pandurang Ghodke was the Assistant Development Officer of KVIC.

B) The accused Ishwardutta Naradji Girhepunje is the proprietor of M/s Dattatray Rice Mills, Khedepar Road, Tahsil Lakhni, District Bhandara. Accused Vijay Pandurang Kurzekar is the proprietor of M/s Hariom Rice Mills, Gut No.527, Kheri Diwan, Taluka Paoni, District Bhandara. Accused Deepak Mahadeo Wankhede is the proprietor of M/s Suchi Rice Mills, Gut No.59/2, Pagora, Post Pahela, Tahsil and District Bhandara.

C) The accused No.1 and accused No.2 Sunil Ghodke were serving in KVIC during the year 2007 at Nagpur Office. It is alleged that they all entered into criminal conspiracy to cheat the KVIC by fraudulently obtaining the margin money under the REGP scheme and in furtherance of their criminal conspiracy fraudulently and dishonestly sanctioned and disbursed the margin money to the private rice mill owners knowing fully that they were not entitled for the same as they did not fulfill the conditions stipulated for the same. The officials of KVIC have abused their official position by corrupt or illegal means and cheated the KVIC to the tune of total amount Rs.22,07,918/- and caused lawful loss to KVIC with corresponding wrongful gain to others. Under the REGP scheme for generation of the employment in rural area loan was to be provided by KVIC through appointed bank and to provide margin money for the products for which cost was less than Rs.25,00,000/-. Under this scheme the products which were more than Rs.25,00,000/- were not eligible for the finance and margin money. It was specified that the calculation of the project cost which includes the capital expenditure and one cycle of the working capital. The cost of the building was included in the project cost. It was stipulated that once the project was sanctioned by the bank before releasing the second installment of the loan the beneficiary had to undergo three days Entrepreneurial Development Programme (in short 'the EDP') training arranged by director of the approved training institute. The spot verification of the unit was also mandatory before releasing second installment and margin money.

D) M/s Hariom Rice Mills through proprietor Vijay Pandurang Kurzekar submitted the project report with application in the office of the KVIC in July-2007 in which he had specifically mentioned that construction of the work shed has been completed. The project cost including the work shed was shown Rs.46,12,000/-. The cost of the shed was not mentioned in the application which was Rs.22,99,000/-, therefore it was not eligible for the margin money under the REGP scheme. The beneficiary also had not undergone EDP training. However, KVIC officials sanctioned Rs.4,49,583/- as margin money by abusing their official position by corrupt and illegal means.

3] It was revealed that all these persons were the parties to the criminal conspiracy and they had committed the offence under Section 120-B read with Section 420 of the Indian Penal Code and Section 13(2) read with Section 13(i)(d) of the Prevention of Corruption Act, 1988. Accordingly, FIR No.RCNAG2010A0006, dated 29.01.2010 came to be registered at CBI,ACB Office, Nagpur, on the complaint by Thomas John, Superintendent of Police, CBI, ACB, Nagpur.

4] During the course of investigation, the investigating officer Shri Vinod Kumar, Inspector of Police, collected different information, recorded statements of the witnesses and found that the accused Vijay Pandurang Kurzekar, the proprietor of Hari Om Rice Mills initially submitted the proposal for rice mill by showing the cost of the project Rs.46,12,000/- including the cost of the building of the unit as Rs.22,99,000/- i.e. below Rs.25,00,000/- to make it eligible under the REGP scheme. Said proposal was examined and put up by the accused No.2 Sunil Ghodke and was subsequently forwarded to the accused No.1 and he forwarded the same to Bank of India, Konda-Kosara for consideration and sanctioning of the project loan to him. The accused No.1 has approved the note and issued the invoice of the margin money of Rs.4,49,583/- in his favour.

5] After investigation, the investigating officer found the accused persons involved in the offence. He filed the separate chargesheet for three beneficiaries. The present case is against the beneficiary Vijay Pandurang Kurzekar alongwith the accused No.1 Sanjay Gajanan Hedaoo and Sunil Pandurang Ghodke (abated) for the above referred offences.

6] For initiating the prosecution, the sanction for prosecution was obtained as against the accused No.1 and accused No.2 and it was issued by Shri J. S. Mishra, Commissioner for KVI on 01.08.2011. The chargesheet accordingly came to be filed.

7] The accused No.1 moved this application for his discharge on the different grounds as mentioned in the application. It is contended that the object of the REGP scheme was to provide employment to the needy and competent persons. The KVIC had deposited huge funds in Nodal Bank and Bank of India Sitabuldi Branch, Nagpur was appointed as Nodal Bank whereas various branches of the Bank of India were appointed as financing banks for the purpose of disbursement of the amount of loans to the aspirants. It was necessary for the financing bank to verify the potential of the aspirant in case of proposal being received by KVIC, Nagpur. The limit of Rs.25,00,000/- was fixed for the purpose of the REGP scheme. After disbursement of the first installment the financing bank was required to take physical verification of the business premises of the party. The financing bank was required to give training to the beneficiary. The KVIC was required to release the amount of subsidy thereafter and said amount was required to be fixed in term deposit for the period of two years at financing bank. After two years, said amount was required to be adjusted as subsidy in favour of the beneficiary. The KVIC had approved the case of M/s Hari Om Rice Mills and proposal was submitted to the tune of Rs.24,68,000/-and said amount was less than Rs.25,00,000/-

and therefore it was eligible for taking benefits under the REGP scheme. The subsidy of Rs.4,49,583/- was sanctioned to said party by KVIC. The prosecution had calculated the project cost by including the cost of the work shed and infrastructure created by the parties. However, the applicant/accused No.1 had followed the rules, regulations and guidelines issued from time to time while discharging his official duty. Said guidelines clearly disclose that the project should be inclusive of work shed and infrastructure and it was duty of the financing bank to verify the same. Unless there is letter of adjustment issued by the KVIC the financing bank was not supposed to release the amount of subsidy. There is no material on record to show that any such letter has been issued by the KVIC, therefore the charges leveled against the applicant/accused does not sustain and those are groundless. The accused No.1 subsequently was promoted to the post of Director of KVIC and he had fulfilled his duty bonafidely, punctually and honestly. None of his act can be said as doubtful or suspicious for making out the criminal charge. There is no prima facie case to frame the charge against the accused No.1. On these counts the applicant/accused No.1 prayed to discharge from the matter.

8] The prosecution in reply (Exh.66) opposed the application. It is contended that in order to avail the benefit under the REGP scheme the beneficiary can either approach to the financing bank directly or get his project proposal forwarded from KVIC, Nagpur. On receipt of any project proposal at KVIC,Nagpur same was required to be checked in all respects including the ceiling limit of the cost thereon by the KVIC officials prior to forwarding it to the financing bank for processing and sanction of the loan under the REGP scheme. There is ample evidence on record to show that on receipt of the margin money claim form alongwith the enclosures from the financing bank, the KVIC was required to arrange for the undergoing EDP for the REGP beneficiary and after successful completion of EDP and after checking the eligibility of the project by way of getting the physical verification done, the KVIC used to issue the sanction letter to their Nodal Bank for release of the margin money in favour of the beneficiary to be kept as term deposit for a period of two years at financing bank till its adjustment against the sanctioned loan. It is clear from the documents that actual cost of the project was Rs.46,12,000/- including the cost of the work shed as Rs.22,99,000/-, therefore the cost of the project was beyond the ceiling limit of Rs.25,00,000/-. The beneficiary was not eligible for getting any benefit under the REGP scheme. So, it is clear that there was criminal conspiracy committed by all the accused. The misconduct regarding release of the margin money was for Rs.4,49,583/-. After completion of the investigation chargesheet was filed. There is sufficient material to proceed against the accused persons. Accordingly, opposed the application.

9] I heard the submissions of learned advocate Shri Patwardhan for the accused No.1 and Shri Wankhede, learned P. P. for the CBI.

10] The learned advocate for the accused No.1 argued that the accused No.1 was working as Deputy Director at KVIC. The REGP scheme is introduced and described in the booklet issued by the KVIC in the year 2003. The work to be done by the KVIC authority and by the bank officials is clearly described in it. There is a clear distinction regarding the calculation of the project cost which includes the capital expenditure and one cycle of the working capital. It is clear from the booklet that the cost of the land should not be included in the project, however the cost of the ready built as well as long lease/rental work shed/workshop/building/shop can be included in the project. As per his submission the project proposal as put forth by the accused No.3 was less than Rs25,00,000/- The cost of the work shed was not to be included in this project cost. However CBI while making allegations has included the cost of the working shed into the project cost and considering that project cost is more than limit of Rs.25,00,000/- and that said project was not eligible for financing under the scheme. It is also contended that in the booklet itself clause 'K' provides modalities of the operation of the scheme about the option for the beneficiary either directly approach to the bank alongwith his project or to approach the KVIC.

11] He further submitted that it was for the bank to apprise the project technically as well as mechanically after ensuring that the project fulfills the criteria of village industry per capita investment, own contribution and rural area the bank had to take their own correct decision on the basis of the viability of each project. As per his submission it was open for the bank to reduce the cost of the project if the bank feels that the cost of the project is more according to the circumstances prevailing in the area. He further submitted that it was for the bank to release the first installment to the beneficiary and then to inform the KVIC Regional Office for arrangement of EDP training. As per his submission the margin money claim was to be submitted by the bank in the prescribed format after release of the bank finance for second installment. The margin money was to be kept in the fixed deposit for two years at the branch level. It was then to be adjusted in the loan. As per his submission when the cost of the shed of the building was not to be included in the project cost mere taking the total cost of the project and the building shed does not bar the beneficiary from getting the benefit of the REGP scheme. There is nothing on record to show any criminal conspiracy was committed by the KVIC officials or the beneficiary.

12] It is further submitted that the projects conducted by the beneficiaries were inspected and those were found in existence. The reports of the same are on record. It is not the case that any project was not found in working condition. As per his submission the CBI has not arrayed the bank officials as accused who has responsibility to act as per the guidelines issued under the booklet. As per his submission, the evidence required under the departmental inquiry is to be scrutinized to the extent of preponderance of probability. When the allegations under departmental inquiry could not be proved on the basis of preponderance of probability there cannot be making out any case against the applicant/accused No.1 beyond all reasonable doubts and there is no material to frame the charge against the accused No.1.

13] The learned advocate for the accused No.1 relied on the cases of i) Ashoo Surendranath Tewari...vs..Deputy Superintendent of Police, EOW, CBI and another (2020) 9 SCC 636, ii) Mr.Tika Bahadur Bhandari..vs.. State of Goa 2016 ALL MR (Cri) 4820 and iii) Arun Gulab Gawli..vs..State of Maharashtra 2007 Cri.L.J.3622 having observations that when the evidence collected during the investigation raises suspicion against the accused there should be a case for framing the charge, however if the material on record are totally lacking in making out the prima facie case against the accused the framing of the charge on the basis of mere statements of the witness does not stand. He also relied on the cases of Union of India..vs..Prafulla Kuamr Samal and another AIR 1979 SC 366 and Central Bureau of Investigation, Hyderabad..vs..K. Narayanr Rao (2012) 9 SCC 512 having observations that if the Court is satisfied that the evidence produced before it while giving rise to some suspicion but not grave suspicion against the accused it will be fully within the right of the Court to discharge the accused. [The case of Manish Dosal Barot ..vs.. The State of Maharashtra 2015 ALL MR(Cri) 1787 is also relied by the accused No.1 side, but it does not appear as relevant for deciding the discharge application].

14] As per his submission after getting the proposal and expenses of the same the entire relations were between the financing bank and the beneficiary of the REGP scheme. Without seeking anything from the KVIC in respect of the adjustment of the margin money kept in the fixed deposit, the bank has released and adjusted the same in the loan account of the beneficiary. The bank was at fault but the CBI has not dragged the bank officials as accused in the present case. The investigation to that effect is faulty. There is no material to show that the accused No.1 has committed any conspiracy to commit the offence and there is no element of deceit available on record to show that any action on the part of the accused No.1 has resulted in cheating. With these submissions he prayed to allow the application and discharge the accused No.1 from the accusations.

15] Learned P.P. Shri S. A. Wankhede for the CBI submitted that for launching prosecution against the accused Nos. 1 and 2 the sanction is obtained from the competent authority who has considered the material placed before it and found that there is a prima facie involvement of the accused Nos. 1 and 2. The proceeding against the accused No.2 is abated due to his death. The allegations which are leveled against the accused persons are tested by the concerned authority. It is clearly mentioned in the sanction order that the accused No.1 who was Deputy Director of KVIC, Nagpur, did not get the physical verification of the project before issuance of the adjustment letter for appropriation of the margin money against the term loan. The appropriation of said margin money amounts to gain to the beneficiary and lawful loss to the KVIC. As per his submission at this stage of framing the charge only prima facie case has to be considered. The exoneration of the accused No.1 from the department inquiry does not entitle him from criminal proceeding. Both the proceedings are based on different footings. The accused No.1 cannot take the benefit of his exoneration from the departmental inquiry. As per his submission the KVIC has called the bank for return of the margin money. Letter to that effect is also filed. There is a criminal conspiracy between the accused persons and all the materials submitted on record by the prosecution are required to be tested bu way of full fledge trial. The accused persons have an opportunity to put forth their defence during the trial. On these grounds the learned P.P. prayed for rejection of the applications.

16] The material allegations which are levelled in the case are that the accused No.3 though was not entitled for getting the benefit of the REGP scheme his project was considered for that purpose. It is further contended that the proposal in which the cost of the project was above Rs.25,00,000/- it was not eligible for any benefits. Now, as contended by the prosecution if cost of the project is included with the cost of the work shed or constructed shed then total amount of the project including the work shed cost is to be considered which should not be more than Rs.25,00,000/-.

17] On the other hand, from the accused side it is contention that the cost of the land was not allowed to be included in the project cost, however the cost of the ready built as well as long lease/rental work shed/workshop/building/shop can be included in the project and discretion was given to the project owner either to include the same in the cost of the project or to consider it separately. So, what contended by the accused side that even if the cost of the work shed or building/shop is included in the project cost, if the basic project cost is below Rs.25,00,000/- that project will be eligible for consideration.

18] In present case, what alleged is that the accused No.3 mentioned total project cost as Rs.46,12,000/- including the cost of the work shed as Rs.22,99,000/-. So actual base project was Rs.23,13,000/-. The accused No.1 and 2 forwarded the proposal to Bank of India, Konda Kosra Dist. Bhandara.

19] In this regard, the guidelines which are mentioned in the booklet are required to be considered. The scheme as envisaged in Clause-A of the book let speak in clear terms that the cost of the land should not be included in the project, then by any way cost of land should not be included in any manner. However, when it is mentioned that the cost of the ready built as well as long lease/rental work shed/workshop/ building/shop can be included in the project, then if the cost towards the same is added in the base product cost it would fall within the discretion of the beneficiary either to show it with bifurcation or to show in total. If the total cost of the building or work shop plus base product cost goes above Rs.25,00,000/- in that case KVIC has to consider the product cost itself which should not be above Rs.25,00,000/-.

20] The word “can” as used in this clause is regarding the work shed/shop does not preclude the beneficiary or the project holder from receiving the benefit of the REGP scheme if his basic project cost is below Rs.25,00,000/- and by adding work shop or building cost it goes above Rs.25,00,000/-. So, if the total cost by adding cost towards the building or shop comes above Rs.25,00,000/- in that case the project cannot be kept away from the benefit of the REGP scheme.

21] At one point of time it is contended from the accused side that project cost and the cost of the building/ shop has to be shown in the proposal so that there would be benefit under the Income Tax Act. This submission or explanation has to be considered in favour of the accused side, and therefore if KVIC has accepted the proposal having total cost more than Rs.25,00,000/- but basic cost is below Rs.25,00,000/- in that case the officer of the KVIC cannot be said at fault while approving said project for giving benefit under the REGP scheme. It is submitted that while doing so KVIC officer or the beneficiary had committed criminal conspiracy to commit the act or the offence. In this regard the allegation of consideration of the project having total project cost going above Rs.25,00,000/- is not tenable. The accused Nos.1 or 3 cannot be held liable to proceeding for that allegation or charge levelled against them.

22] It is further contention from the accused side that when the accused No.1 is exonerated from the departmental inquiry there will not be any criminal prosecution against him regarding same allegations. What contention from accused side is that principles applied for departmental inquiry is preponderance of probability where as for criminal trial the allegations are to be proved beyond all reasonable doubts. The thing which is not proved on the basis of preponderance of probability it cannot be proved by applying strict proof beyond all reasonable doubt. The citations relied by the learned advocate for the accused No.1 if considered then it is always necessary for the Court to see as to what kind of material is placed before it by the prosecution. The material which is to be considered by the Court must be sufficient to presume that there is a case to be tried against the accused and that suspicion shall be reasonable suspicion and not a mere suspicion.

23] So far as nature of material which is to be considered in departmental inquiry is concerned the evidence may be almost same which is to be considered in criminal trial. However, merely because the accused is exonerated from the departmental inquiry it cannot be said that he will be automatically benefited and can get clean chit from the criminal trial. All the materials placed before the Criminal Court is to be considered properly for making out case against the accused and need to proceed against the accused.

24] It is allegation that the accused No.2 (proceeding against whom is abated) knowing that the party had not undergone EDP training put favorable note recommending for sanction and issued all release advices of the margin money to the beneficiaries and it was approved by the accused No.1 and then released the advices. So, without looking to the aspect of completion of EDP training by the beneficiaries the actual benefit of the scheme was given by the accused No.1 to the accused No.3. In this regard it is contention from the accused No.1 side that it was for the bank to give EDP training to the beneficiaries and thereafter the matte was required to be reported to the KVIC. Thereafter, the KVIC was required to release the amount of subsidy in favour of the beneficiaries.

25] In this regard if rules as framed in the book let are considered it can be gathered that once the project is sanctioned and first installment of the bank finance is released to the beneficiary the bank will inform the State/Regional Office of the KVIC, as the case may be, for arranging EDP training to the beneficiary if he has not already undergone such training. If he has already undergone such training either with the training centre of KVIC or KVIB or at any other training centre of repute, such beneficiary need not undergo EDP training. It is further mentioned that after successful completion of EDP training arranged by the KVIC, bank will release second installment of the bank finance to the beneficiary. So it appears from this scheme that the EDP training has to be arranged by the KVIC. Now, what contention made from the accused No.1 side that KVIC had only to pay necessary charges for the training purpose. In this regard, I have gone through the chargesheet and other documents as well as statements of the witnesses. In the statement of Chandrapal Singh S/o. Mohanlal Singh, the Development Officer of KVIC it is submitted that financing bank branches used to send prescribed format for EDP training to the concerned Maharashtra Centre Entrepreneur Development of respective districts with copy to the KVIC for information only. After imparting the EDP training to the beneficiary, the concerned MCED would submit the claim for reimbursement of the fees to the KVIC along with a copy of the EDP certificate. On verifying the claim, the necessary fees used to be reimbursed to MCED by KVIC. It is mentioned that except making of payments to the MCED as training expenses in respect of REGP beneficiary, KVIC has no role to play in this regard. It appears from the record that there is no document to show that bank has complied this requirement by informing to KVIC or sending the list to MCED.

26] However, the aspect of completion or non completion of the EDP training is related to the release of second installment. It is not directly related to the release of margin money about the allegations are made against both the accused. Secondly, there appears no list shown forwarded from the bank for training purpose. It is difficult to say that officials of the KVIC had any role regarding the aspect of completion of training of the beneficiary. In my view, on these counts neither the KVIC officials or actual beneficiary can be held responsible and can be prosecuted without any concrete material. Considering the same, the allegations to that effect are not sufficient to proceed against the accused persons for any charge of wrongful loss to the KVIC or wrongful gain to the beneficiary or criminal conspiracy to that effect between the accused Nos. 1 and 3.

27] The contention from the accused side is that there is no adjustment of the margin money in the account of the accused No.3 as said amount was required to be kept in fixed deposit for two years and then it was to be considered eligible for adjustment in the finance amount. The action before adjustment of that amount is premature and on that count the contention is made that no action can be taken against the accused Nos. 1 or 3 to that effect. It was contention from the side of the accused No.3 that without prejudice to their rights to defend he is ready to return any benefit regarding the margin money. It is also contention from his side that already whole amount of the REGP scheme is repaid by him and now there is no due against them. The project was going on successfully and from time to time necessary inspection was done from the KVIC officials.

28] The allegation is that without inspection of the project unit the margin money was released. However, if this allegation is considered then there appears no concrete material on record to that effect to show that the inspection of the project unit was not taken at all. The statements of some of the witnesses recorded during the investigation reveal that the joint inspection of KVIC and the bank was conducted. Considering this aspect in my view if there is any omission to conduct the physical verification or inspection of the project unit benefitted under the REGP scheme it is difficult to say that there was any criminal conspiracy between the accused persons to that effect.

29] It is always necessary to differentiate between the act or omission happened inadvertently of negligently and any act or omission done intentionally with any motive and preparation. What contended from the accused side that different projects were benefitted under the REGP scheme and discrepancies are shown noticed only against three projects for which the case are now filed. Initially, complaint was lodged against different project holders and during investigation sufficient evidence was not shown found to substantiate charge against the accused Nos. 4 to 6 and 9 and 10. On going through the whole chargesheet and concerned documents on record, no inference can be drawn that there was any criminal conspiracy or any act or omission on the part of the accused Nos. 1 and 3 with intention to commit wrongful loss to the KVIC or to the bank or wrongful gain to the beneficiary or to any one. The act or omissions are required to be done with specific intention and motive and said intention or motive cannot be gathered in the present matter against the accused No.1 and or the accused No.3.

30] It is to be noted that when the allegations of the criminal conspiracy are levelled against more than one person, if criminal conspiracy against one accused is not found, there cannot be a case against the sole accused regarding criminal conspiracy. Ultimately, the benefit of the same goes to the remaining persons put on trial.

31] Considering the same, there appears no material to proceed against the accused No.1 for the allegations levelled against them. The application as such filed by the accused No. 1 for discharge from the accusations is liable to be allowed. The prosecution launched against the accused No.1 is liable to be closed by discharging the accused from all the charges levelled against him. In view of the above, following order is passed.

ORDER

I) The application (Exh.48) for discharge of the accused No.1 Sanjay Gajanan Hedeoo is hereby allowed.

II) The necessary order of discharge be passed on Exh.1.

SHRIKANT PADMAKAR GONDHALEKAR

order
Digitally signed by SHRIKANT PADMAKAR GONDHALEKAR
Date: 2026.08.07 16:49:17 +0530

Nagpur
06.08.2026

(S. P. Gondhalekar)
Special Judge, CBI Court, Nagpur

CERTIFICATE

I affirm that the contents of this P. D. F. file of order are word to word, as per original order.

Name of Stenographer (Grade-1): P.U.Kitey