

**IN THE COURT OF ADDL.SESIONS JUDGE AT PAITHAN,
DISTRICT AURANGABAD**

MHAU170002172026



**Criminal Bail Application No. 52 of
2026
Sachin Vikramrao Ghayal Vs. The
State of Maharashtra.
Crime No. 63 of 2026, Offence U/sec.
318(4),316(2),336(2),336(3),338,340
(2), 238 R/w 3(5) of BNS.
Police Station MIDC Paithan, Dist.
Aurangabad.**

ORDER BELOW EXHIBIT 01

01. This is an application under section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of anticipatory bail by applicant namely Sachin s/o Vikramrao Ghayal.

02. The Investigating Officer has strongly opposed the application by filing his reply vide Exh. 06. One Deepak More has also opposed the application by filing his reply vide Exh. 08.

03. Heard the learned counsel for the applicant and learned APP for the State. Perused the application, reply, case diary and all the documents produced on record. It is the submission of learned counsel for applicant that the alleged offences are not attracted even if all the allegations of report are accepted as it is. It is his further submission that the informant has given colour of criminal act to the civil dispute due to political influence to harass the applicant. It is his further submission that M/s Sachin Ghayal Sugar Private Ltd. Company is registered under the provisions of Companies Act, 2013

and therefore, applying provisions of Maharashtra Co-operative Societies Act, 1960 and directing Shri Kakde to inspect the record of M/s Sachin Ghayal Sugar Private Ltd., is without jurisdiction. It is his further submission that the provisions of Chapter VIII, Section 81 to 89 of MCS Act,1960 and Rule 71 and 72 of MCS, Rules,1961 are violated and without compliance, crime is registered. It is his further submission that District Special Auditor was appointed to conduct test audit within 45 days by order dated 30.09.2025 and time expired on 15.11.2025 and the test audit report was submitted on 31.12.2025, hence audit is conducted without jurisdiction and authority after expiry of period, as such it is non-est. It is his further submission that as per the collaboration agreement dated 03.08.2015, M/s. Sachin Ghayal Sugar Pvt. Ltd. (for short, SGSPL) is empowered to take loan and mortgage the property of Shri Sant Eknath Sahakari Sakhar Karkhana Ltd. (for short, SSESSK), hence allegations of FIR are devoid of merit. It is his further submission that the entire evidence on which reliance is placed is in the shape of documentary and electronic evidence as such, custodial interrogation of applicant is not necessary. It is his further submission that the loan of Rs. 30 Crore which is taken from Buldhana Urban Co-operative Credit Society has been utilized in paying the loan of MSC Bank, share amount, processing fees and GST and for modernization of sugar factory during the period from August,2021 to March,2023 and consequently the alleged offences are not attracted. It is his further submission that the alleged offences are triable by the Magistrate and considering the

status of applicant as Chartered Accountant and reputed person in society, the applicant deserves an anticipatory bail. In support of his submissions, he relied upon following citations :

1] **Prabhakar Tewari Vs. State of Uttar Pradesh and Another, (2020) 11 Supreme Court Cases 648**, wherein the Hon'ble Supreme Court has held that the pendency of several criminal cases and the allegation of commission of grave and serious crime against accused cannot be the basis for refusal of prayer for bail.

2] **Maulana Mohammed Amir Rashadi Vs. State of Uttar Pradesh and Another, (2012) 2 Supreme Court Cases 382**, wherein the Hon'ble Supreme Court has held that merely on the basis of criminal antecedents, the claim of bail of the accused cannot be rejected and that the Court has to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court, etc.

3] **Vesa Holdings P.Ltd. and Ors. Vs. State of Kerala and Ors., Criminal Appeal Nos. 2341 and 2342-2344 of 2011 + decided on 17.03.2015**, wherein the Hon'ble Supreme Court has held that every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception.

4] **Satishchandra Ratanlal Shah Vs. State of Gujrat & Ors., Criminal Appeal No. 09 of 2019 decided on 03.01.2019**, wherein the Hon'ble Supreme Court has held that mere inability to return loan

amount could not give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention was shown right at beginning of transaction.

5] **Sunil Sharma Vs. Hero Fincorp Ltd. and Ors., MANU/SC/1116/2025**, wherein the Hon'ble Supreme Court has observed thus :
“12. Next, when a loan is advanced, a relationship of creditor and debtor is created and the money lent is generally to be utilized by the borrower for the purpose it is handed over. If, however, a breach of the direction as to how the money is to be utilised appearing from the relevant loan agreement occasions not because the borrower dishonestly misappropriates the same or converts it for his own use with the intention of causing wrongful gain to himself or wrongful loss to the lender, but because the borrower is forced by circumstances beyond his control to act in violation of the stipulations therein and, violates the same, no offence is committed punishable Under Section 406, Indian Penal Code.

13. Also, when a relation of debtor and creditor is created by a loan transaction and the monies are not repaid according to the terms agreed upon, it gives rise to a civil liability. A criminal liability would arise in addition to the civil liability when all the ingredients of Section 405, Indian Penal Code are satisfied.”

6] **Mahadevrao Uttamrao Rajurkar Vs. State of Maharashtra, Criminal Application (APL) No.585 of 2017**, wherein the Hon'ble Bombay High Court, Bench at Nagpur quashed the FIR noticing that it was not filed by authorized person leaving it open for the department to take necessary steps in accordance with law.

7] **Pradip N. Sharma Vs. State of Gujrat and Anr., 2025 INSC 291**, wherein the Hon'ble Supreme Court granted bail to the petitioner therein in a circumstance where the prosecution had not

demonstrated any necessity for the custodial interrogation of the petitioner beyond scrutiny of official records.

04. Per contra, it is the submission of learned APP that the custodial interrogation of applicant is necessary and therefore, the present application needs to be rejected. It is his further submission that the material evidence is in the custody of applicant and therefore, his custodial interrogation is necessary. It is his further submission that the applicant is a Chartered Accountant knowing well how to maintain the records and if he is granted anticipatory bail, there is every possibility of tampering with record and therefore, the present application needs to be rejected.

05. On going through the documents produced by the applicant and the case diary, it emerges that SSESSK and SGSPL entered into Collaboration Agreement on 03.08.2015 as per the approval granted by the Co-operative Department of Government of Maharashtra vide letter No. SSK/2014/PK/118/3S dated 11.09.2014 as amended by letter dated 29.01.2025 as per the provisions of Section 20(A) of MCS Act,1960. At the time of entering into above-said agreement, the present applicant was the Chairman and Managing Director of Sachin Ghayal Sugar Private Ltd., which is incorporated on 31.07.2014 as per the certificate of incorporation issued by Deputy Registrar of Companies, Maharashtra. As per the agreement,SGSPL is given right to run and conduct the business of SSESSK from the date of agreement for eighteen crushing seasons.

Said collaboration is also named as 'Shri Sant Eknath – Sachin Ghayal Sugar Private Ltd.' in the collaboration agreement. The rights and liabilities of both the parties are also provided in the agreement. Article-I of the agreement provides for the responsibilities of SGSPL. Clause 4 of Article-I of said agreement reads as follows :

4. From the date of execution of this agreement, the party of the other part (SGSPL) shall manage the business of the sugar factory or any other business or non-business activity in legal manner and shall observe all rules and regulations applicable in this regard and shall keep the party of the first part (SSESSK) indemnified and harmless from infringement thereof, if any. The party of the first part (SSESSK) shall not held responsible for any consequences arising out of non-fulfillment of the provisions of any law applicable in this regard from the date of execution of this agreement. The party of the other part (SGSPL) shall be solely responsible for any act of omission or negligence in this regard.'

06. Clause 8 of Article-I of said agreement reads as :

The party of the other part (SGSPL) as an occupier of the sugar factory, shall honour all statutory obligations relating to the management and operation of sugar factory, including but not limited to the terms and conditions of sugar factory's license, crushing license, sugar control order, Maharashtra Regulation of Sugarcane Price (supplied to factories) Act, 2013, Central and State Excise Regulations, Pollution and Environment Regulations, Labour Regulations and maintain all such records, furnish all such information as is necessary, pay such taxes, duties, Cess or Fees, renew such licenses, insurance policies of said factory and its current and fixed assets and even that of the employees and adhere

to all orders and directives of the Government Authorities, including but not limited to Directororate of Sugar, Ministry of Food, Government of India, New Delhi, Commissioner of Sugar, Maharashtra State, Pune. Sugarcane Control Board and ensure that there are no violations in the operation of the sugar factory and the party of the first part (SSESSK) will be indemnified and kept harmless by the party of other part (SGSPL) in that regard. However, nothing in this clause will apply for the compliances prior to the date of this agreement. Any such compliance prior to the date of this agreement will be the responsibility of party of the first part. In case, due to the non-compliance or violation or infringement by the part of the first part in any of the above-said provisions, the part of the other part suffers any loss, the party of the first part shall always indemnify and keep harmless the party of the other part against all such losses.

07. Article-M of the agreement speaks about Audit and Accounts and the same reads as under :

All the provisions of Audit and Accounts as per Companies Act, 2013, Income Tax Act, 1961 or any other law will be applicable to the party of the other part (SGSPL). The party of the other part (SGSPL) shall maintain proper books of accounts and shall maintain its copies at its registered office. The party of the first part (SSESSK) does not have any right to ask for copies of accounts of the party of other part (SGSPL). Also, the party of the first part (SSESSK) shall maintain its regular books of accounts as required by Co-operative Societies Act or any other applicable law and get it audited. The party of the first part (SSESSK) shall regularly give required accounting effect in its own books with respect to its liabilities discharged by the party of the other part (SGSPL). Also the party of the first part (SSESSK) shall handover certified copies of audited books of accounts and financial statements of each year to the party of the other part

(SGSPL) before 30th September each year during the continuation of this collaboration agreement. It is hereby agreed by and between the parties hereto that the party of the other part (SGSPL) is also entitled to demand and receive certified copies of audited books of accounts and financial statements of the party of the first part (SSESSK) for the period prior to the execution of this agreement.

08. Apparently, SSESSK is a society registered under the MCS Act, 1960 and is being governed by the provisions of the said Act. The collaboration agreement between SSESSK and SGSPL has come into effect with the prior approval of the Co-operative Department of Government of Maharashtra as per the provisions of Section 20(A) of MCS Act,1960. Above-referred clauses of the collaboration agreement clearly shows that the SGSPL undertaken the business of SSESSK and has accepted the liability to maintain the books of account in respect of the business activities. In such situation, it cannot be accepted that the Auditor appointed under MCS Act, 1960 has no authority to inspect the record of SGSPL. It is true that under the Companies Act, 2013, there are separate provisions regarding accounts of companies and its audit. But, those provisions do not restrict the operation of MCS Act,1960 and its rules. The learned counsel for applicant has also not pointed out any provision of law which restricts the operation of MCS Act,1960 in the given circumstance.

09. It is not disputed by the learned counsel for applicant that SGSPL has obtained loan of Rs. 30 Crore from Buldhana Urban Co-

operative Credit Society by mortgaging the assets of SSESSK. But, it is his submission that the SGSPL has utilized an amount of Rs.1317.30 Lakhs against loan of MSC Bank, an amount of Rs. 82.08 Lakhs towards share amount, processing fees and GST and rest of the amount i.e. Rs. 16,00,62,000/- is spent for modernization of sugar factory during the period from August, 2021 to March, 2023 and there is no misappropriation as alleged by the informant. The submission of learned counsel for applicant that SGSPL utilized the amount for modernization cannot be accepted in view of the audit report and the case diary. The audit report clearly indicates that despite receipt of notices under the provisions of MCS Act, 1960, the applicant had not made available the record to the Auditor appointed under the provisions of MCS Act,1960. By invoking the provisions of Section 80(1) (2) of MCS Act, 1960, the Auditor with the help of Tahsildar and police visited the factory, where only one employee named Amol Sudamrao Ghayal was found available and he could not give the necessary record required for test audit except some documents mentioned in the audit report. The Auditor has also visited the registered office address of SGSPL to have the record for the purpose of test audit, but the wife of applicant obstructed him and asked him to go to the factory of SSESSK. The Auditor has also contacted the applicant on his phone. But, the applicant replied him that he has no right to seize the record of his company (SGSPL). In short, the applicant has not cooperated the Auditor in test audit of the record. Consequently, on the basis of record available with concerned

Banks and Regional Deputy Director (Sugar), Chhatrapati Sambhajinagar and SSESSK, Auditor has completed the test audit and submitted audit report and with the prior permission of Regional Deputy Director (Sugar), Chhatrapati Sambhajinagar, has lodged FIR against the applicant and SGSPL alleging that the applicant and the share-holders of SGSPL cheated the SSESSK and its members by not utilizing an amount of Rs. 16,00,62,000/-, for extension and modernization of SSESSK, out of an amount of Rs. 30 Crores obtained from Buldhana Urban Co-operative Credit Society by mortgaging the property of SSESSK and by preparing false and bogus documents.

10. The reply of the Investigating Officer clearly reveals that Ashok Haribhau Dharme, the then Accountant of SGSPL, disclosed to the Investigating Officer that from the HDFC Bank Account of SGSPL, amount obtained from loan is transferred to several Banks i.e. Buldhana Urban Co-operative Credit Society, Bandhan Bank, Paithan Branch, Rajeshree Shahu Bank, Branch Paithan, Shree Venkatesh Multi-State Shakha, Paithan.

11. The statement of account of HDFC Bank of SGSPL shows that on 07.09.2021, an amount of Rs. 1 Crore has been transferred to Aurangabad Paper Mills, Paithan, which is closed from last 27 years and when the Investigating Officer asked about said transfer, Managing Director of said Paper Mills Mr. Badal Mittal informed that said amount is received by him towards the

consideration of sale of land Gut No. 63/2 admeasuring 81 R and land Gut No. 318 admeasuring 9 H 6 R and not towards the purchase of any machinery or construction.

12. The employees and Board of Directors have stated to the Investigating Officer that no modernization or extension of SSESSK has taken place.

13. There is document in the nature of letter dated 09.03.2026 written by Paithan Paper Mills Ltd.(formerly known as Aurangabad Paper Mills Ltd.) supporting the contention of Investigating Officer that in the year 2022, M/s. Aurangabad Paper Mills Ltd. (now known as Paithan Paper Mills Ltd.) sold its land totally admeasuring approximately 9.87 Hectors at village Isarwadi, Tq. Paithan to Ethanol King Pvt. Ltd. (represented by its Director Smt.Abhiruchi Sachin Ghayal). The details of the transaction are also given in this letter. He has specifically stated that he has no involvement with any loan, mortgage, hypothecation or any matter concerning SSESSK. Thus, there is *prima facie* evidence in the nature of statement of account and the reply of the person to whom money has been transferred from the account of SGSPL showing that the applicant has not utilized the amount for modernization and extension of SSESSK rather he has used the amount for purchase of land that too in the name of company which is represented by his wife. There are statements of employees and some members of Board of Directors showing that no extension or modernization of SSESSK has

happened.

14. The applicant alleged to have removed the computers having the important data regarding the business of the factory before the seizure. It is apparent on the face of record that since beginning, the applicant has not cooperated in test audit of the accounts. Therefore, there is no reason to disbelieve the allegation regarding the removal of computers and the records from the factory premises. For the purpose of investigation, those computers and records are very much necessary and for the recovery thereof, custodial interrogation of applicant is very much necessary. The applicant is a Chartered Accountant knowing well about the intricacies of accounts and the law in that regard and therefore, the possibility of tampering of the accounts in the event of grant of anticipatory bail cannot be ruled out. Looking to the nature of transactions involved in the present case, the possibility of applicant fleeing from justice, in the event of grant of anticipatory bail, cannot be ruled out. On consideration of the material available on record, I find no substance in the submissions advanced by learned counsel for applicant. So also, in the facts of present case, none of the case laws relied upon by the learned counsel for applicant is helpful to the applicant.

15. Apparently, the offences involved in the case are economic offences. Therefore, it would be apt to quote the observations of the Hon'ble Supreme Court in the case of *Serious Fraud Investigation Office V/s. Aditya Sarda*, reported in, 2025

INSC 477, at para 23, which reads as :

“23. In view of the above settled legal position, it is no more res integra that economic offences constitute a class apart, as they have deep rooted conspiracies involving huge loss of public funds, and therefore, such offences need to be viewed seriously. They are considered as grave and serious offences affecting the economy of the country as a whole and thereby posing serious threats to the financial health of the country. The law aids only the abiding and certainly not its resistants. When after the investigation, a charge-sheet is submitted in the Court, or in a complaint case, summons or warrant is issued to the accused, he is bound to submit himself to the authority of law. If he is creating hindrances in the execution of warrants or concealing himself and does not submit to the authority of law, he must not be granted the privilege of anticipatory bail, particularly when the Court taking cognizance has found him prima facie involved in serious economic offences or heinous offences...”

16] Considering the observations of Hon’ble Supreme Court and the aforesaid reasons, I am not inclined to grant anticipatory bail to the applicant. I, therefore, proceed to pass following order :-

ORDER

Application (Exh.1) is hereby rejected.

Dated : 01.04.2026

(R.D.Gadwe)
Additional Sessions Judge,
Paithan.