



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

CRIMINAL REVISION APPLICATION NO.173 OF 2023

Ashish Vinit Marwaha.

...Applicant/ accused No.2

-VERSUS-

1. The Central Bureau of Investigation.
2. The Union Bank of India.

...Respondent

**WITH
CRIMINAL REVISION APPLICATION NO.207 OF 2025**

Arvind Dilip Patil.

...Applicant/ accused No.5

-VERSUS-

1. The Central Bureau of Investigation.
2. The Union Bank of India.

...Respondent

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Shri Abhaykumar D. Ostwal, for the applicants/ accused.

Shri Sachin S. Panale, standing counsel for respondent No.1/
CBI.

Shri Yogesh Bolkar, advocate h/f Shri A.A. Mishra, advocate for
respondent No.2.

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CORAM : SUSHIL M. GHODESWAR, J.

Reserved on : 23 September 2026

Pronounced on : 13 October 2026

Per Court:-

1. As the contentions of the parties are substantially identical and the prosecution arises out of the same FIR, both revision applications are being decided by this common judgment.

2. These two Criminal Revision Applications arise out of Special Case (ACB/CBI) No.12 of 2015 pending before the learned Additional Sessions Judge and Special Judge, Latur. The applicant/ accused No.2 (Ashish Vineet Marwah) in Criminal Revision Application No. 173/2023, challenges the order dated 05.01.2021 passed below Exhibit-259, whereby his application for discharge under Section 227 of the Code of Criminal Procedure came to be rejected. The applicant/ accused No.5 (Arvind Dilip Patil) in Criminal Revision Application No.207 of 2025, challenges the order dated 18.03.2025 passed below Exhibit-376 in the same Special Case, rejecting his application for discharge.

3. Both the applicants seek discharge from prosecution arising out of FIR No. RC-BSM 2014 E 0003 dated 25.03.2014,

registered with the CBI, BS&FC, Mumbai and culminated into Special Case (ACB/CBI) No.12/2015 for the offences punishable under Sections 120-B r/w 420, 468, 469, 471 of the Indian Penal Code and Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988. Special Case No.12/2015 is now transferred from the learned Special Court, Latur to the learned Special Court at Aurangabad and is registered as Special Case No.565/2025.

4. The prosecution case, in brief, is as under:-

(a) The Union Bank of India and Bank of Maharashtra had sanctioned term loan of Rs.33.53 crores and cash credit facility of Rs.6.46 crores to M/s. Victoria Agro Food Processing Private Limited (accused No.1) for construction of premises and installation of food-processing unit. The applicants and other accused persons were connected with the borrower company as directors, guarantors or otherwise and that the loan facilities were obtained on the strength of documents relating to the property offered as security.

(b) The registered mortgage deed dated 30.07.2009 was executed before the Sub-Registrar, Shirur Anantpal, in favour of

the consortium of banks in respect of property bearing Survey/Gat No.289/A, admeasuring about 1 hectare 61 R, together with construction admeasuring about 28,740 square feet. During proceedings initiated by the bank under the SARFAESI Act, a certified copy of the mortgage deed was produced on behalf of the borrower company and the guarantors, which described the property as Survey No.5/A, admeasuring 740 square feet.

(c) The bank thereafter obtained a certified copy from the office of the Sub-Registrar on 07.07.2012 and, on comparing the documents, allegedly found that pages 17 and 29 had been tampered and substituted. The substitution of those pages showed the property of substantially lesser value in place of the property originally described in the mortgage deed, thereby affecting the security of the banks.

(d) It is, therefore, alleged that false or forged revenue records and property documents were used in connection with the valuation and mortgage; that the loan proceeds were diverted through other entities; and that certain transactions were shown as the borrower's own contribution towards margin money,

though the funds had allegedly originated from loan disbursements.

(e) The CBI registered the case on 25.03.2014 on the basis of the complaint dated 20.03.2014 made by the Chief Manager of the Union Bank of India. After investigation, the CBI filed the charge-sheet and the case is culminated into Special Case (ACB/CBI) No.12/2015 for the offences punishable under Sections 120-B r/w 420, 468, 469, 471 of the Indian Penal Code and Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988.

5. The applicants sought discharge contending, inter alia, that they had no role in the alleged substitution of pages in registered document kept in the custody of the Sub-Registrar. The prosecution had not collected material showing an agreement or meeting of minds to commit an illegal act and that the ingredients of cheating, forgery and criminal conspiracy were not made out. They contended that the dispute was essentially financial. The borrower had settled the bank's claim under the One-Time Settlement and paid Rs.25.50 crores, and therefore, the bank had confirmed that no amount remained due. They also

relied upon the delay in registration of the FIR and therefore, contended that they have been falsely implicated.

6. The learned Special Judge, by the impugned order dated 05.01.2021 passed below Exhibit-259, rejected the application for discharge filed by accused No.2. By a separate order dated 18.03.2025 passed below Exhibit-376, the learned Special Judge rejected the discharge application of accused No.5. The applicants contend that the material on record does not disclose sufficient ground to proceed against them and that the respective orders are liable to be set aside in revisional jurisdiction.

7. The learned counsel for the applicants submitted that the prosecution has not shown how the applicants could have tampered with pages of the mortgage deed after its registration and while the document was in the custody of the Sub-Registrar. The mere fact that the applicant was associated with the borrower company cannot be sufficient to infer that the applicant is involved in any conspiracy. The statements relied upon by the prosecution do not establish the applicants' participation in the alleged tampering and that no agreement between them and the

other accused to commit the alleged offences has been shown. In the case of accused No.5, the allegations that he submitted property documents to the valuer and accompanied the valuer during the site visit are also required to be considered with the other material, and do not by themselves establish guilt.

8. The learned counsel for the applicants further submitted that the bank's claim had been settled under the One-Time Settlement and that the loan amount had been repaid. The bank had also issued a letter for removal of its charge over the property. According to the learned advocate, after settlement and closure of the loan account, continuation of the criminal prosecution would serve no useful purpose. It was also argued that the FIR was lodged after considerable delay, that the applicants had been falsely implicated, and that the prosecution case does not disclose the necessary ingredients of Section 420 of the Indian Penal Code, particularly when the borrower company continued to exist and function. The applicants, therefore, prayed that the respective impugned orders be set aside and that they be discharged.

9. In support of above submissions, reliance is placed

on the judgments, namely, Union of India v. Prafulla Kumar Samal, (1979) 3 SCC 4; Dilawar Balu Kurane v. State of Maharashtra, (2002) 2 SCC 135; P. Vijayan v. State of Kerala, (2010) 2 SCC 398; and Yogesh alias Sachin Jagdish Joshi v. State of Maharashtra, (2008) 10 SCC 394, and it is contended that where the material does not give rise to grave suspicion, the accused ought to be discharged.

10. *Per contra*, the learned counsel Shri Panale for the CBI submitted that the prosecution case is not confined to the default in repayment of the loan. The main allegation is that the property described in the original mortgage deed was replaced in later copies by a different property of substantially lesser value. It was submitted that the bank's certified copy and the copy subsequently produced in the SARFAESI proceedings contain material discrepancies in pages 17 and 29. The CBI relies upon the statements of witnesses, the property and valuation documents, the input form signed by accused Nos.2 and 5, and the forensic material collected during investigation. It is argued that these materials, when read together, disclose a prima facie case of conspiracy, cheating and forgery.

11. The learned counsel for the CBI further submitted that accused No.5 had allegedly submitted property documents, including property card dated 10.07.2009, to the valuer and had accompanied the valuer during the site visit. The learned counsel for the CBI relies upon the statements of the valuers and the bank officials in this regard. As against accused No.2, the CBI relies upon his position as Managing Director of the borrower company and the documents concerning the loan and security, including the input form containing the description of Survey No.289/A.

12. The learned counsel for the CBI specifically submitted that the loan funds were routed through fictitious concerns and that amounts were deposited and returned to the borrower's account to give an impression that the margin money had been contributed from the company's own resources. The learned counsel submitted that these allegations must be tested at trial and cannot be rejected by conducting detailed appreciation of evidence at the discharge stage.

13. The learned counsel for the CBI further submitted that repayment of the loan or settlement of the bank's civil claim does not wipe out criminal liability for offences allegedly

committed by the accused persons earlier. The prosecution has material to show that the alleged acts formed part of concerted plan and that the alleged substitution of pages of the mortgage deed and use of documents said to be forged, give rise to grave suspicion.

14. In support of the above submissions, the learned counsel for the CBI relied upon the judgments, namely, State of Maharashtra through CBI v. Vikram Anantrao Doshi, (2014) 15 SCC 29; CBI v. Sarvodaya Highways, 2025 SCC OnLine SC 2589 (also reported as 2025 SCC OnLine SC 2589); State of Gujarat v. Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur, (2017) 9 SCC 641; CBI v. Maninder Singh, (2016) 1 SCC 389; and Asim Sharif v. National Investigation Agency, (2019) 7 SCC 148.

15. The learned counsel for the CBI also relied upon the judgment dated 05.03.2020 passed by this Court in Criminal Writ Petition No.759 of 2019, whereby the challenge to rejection of the discharge application of accused No.3 came to be dismissed. Similar is the fate of the discharge application filed by accused No.4 and this Court dismissed his Criminal Revision Application

No.4/2021 vide order dated 14.07.2022. This order dated 14.07.2022 was challenged by accused No.4 in SLP (Criminal) No.7421/2022 and the Hon'ble Supreme Court also dismissed the said SLP vide order dated 12.09.2022.

16. The learned counsel for the CBI, therefore, submitted that the material collected during investigation must be considered as a whole and that the revision applications deserve to be dismissed.

17. The learned advocate appearing for the respondent/Bank submits that in view of the facts and circumstances of this case, appropriate orders may be passed.

18. After hearing the learned counsel for the respective sides and perusing with their assistance the record before this Court, it is seen that so far as accused No.2 (Ashish Marwah) is concerned, the CBI relies upon his position as Managing Director of the borrower company and he is aware about the loan and security documents, including the input form containing the description of the property offered as security. The prosecution has relied upon several documents and circumstances which connect accused No.2 with the transaction. Therefore, whether

those documents and circumstances establish his knowledge or participation, is a matter to be tested at trial.

19. So far as accused No.5/ Arvind Dilip Patil is concerned, the CBI specifically relies upon the statements of the valuers and other witnesses to the effect that he submitted property documents for valuation and accompanied the valuer during the site visit. The prosecution also relies upon the property documents and the valuation material said to have been submitted to the bank. These allegations are disputed, and their truth cannot be finally determined in these revision applications. However, the material relied upon by the prosecution cannot be brushed aside at the stage of discharge. Its evidentiary value and the explanation of the applicant will have to be considered during trial.

20. The allegation of criminal conspiracy is required to be considered from the cumulative effect of the circumstances relied upon by the prosecution. At this stage, the Court is not required to write the final finding that a conspiracy has been proved. The question is whether the material collected during investigation, taken at its face value, gives rise to grave suspicion

that the accused persons acted in concert in relation to the alleged alteration of the mortgage deed and the securing or diversion of the loan funds. The principles governing consideration of discharge application, as explained in *Union of India v. Prafulla Kumar Samal and Dilawar Balu Kurane (supra)*, do not require the Court to conduct a mini-trial or to finally assess the probative value of each circumstance. On the material referred to above, the prosecution case cannot be held to be groundless at this stage.

21. The contention that the loan account was settled under the One-Time Settlement also does not furnish a ground for discharge. The settlement may have consequences in relation to the bank's recovery proceedings and civil liability. It does not, by itself, erase the allegations of forgery, cheating or conspiracy said to have been committed earlier. In *State of Maharashtra through CBI v. Vikram Anantrai Doshi, (2014) 15 SCC 29*, the Supreme Court explained that repayment to a financial institution does not, by itself, justify termination of criminal proceedings where the allegations disclose a larger public or societal impact. In *CBI v. Sarvodaya Highways, 2025 SCC OnLine SC 2589*, the Supreme Court considered the effect of settlement in the context

of allegations of fabricated documents and misrepresentation to a bank.

22. The decision of this Court dated 14.07.2022 in Criminal Revision Application No.4 of 2021, Sambhaji s/o Diliprao Patil v. Central Bureau of Investigation and another, is also relevant. In that matter, accused No.4 challenged rejection of his discharge application in the same Special Case. The revision was dismissed after the Court found prima facie material concerning the alleged substitution of pages of the mortgage deed and held that repayment of the loan did not, by itself, discharge criminal liability. It is brought to the notice of this Court that the said order was challenged before the Supreme Court in SLP (Criminal) No.7421 of 2022, which was dismissed on 12.09.2022. The CBI also relied upon the judgment dated 05.03.2020 passed by this Court in Criminal Writ Petition No.759 of 2019, Prajakta w/o Ashish Marwah v. Union of India and CBI, concerning accused No.3. In that matter, the challenge to the rejection of the discharge application was dismissed. The Court considered, among other things, the allegations concerning the differing versions of the mortgage deed, the alleged use of

forged property documents and the effect of the One-Time Settlement.

23. The contention regarding delay in registration of the FIR and the allegation of false implication are matters which may be urged and considered in the course of trial. On the material presently relied upon by the prosecution, these contentions do not negate the existence of the documentary discrepancies and the other circumstances forming the basis of the charge-sheet. It would not be proper, at this stage, to weigh those circumstances finally or to decide whether the explanation offered by the applicants is more probable than the prosecution case.

24. Having considered the material referred to in the charge-sheet and the submissions advanced on behalf of both sides, this Court is of the view that the prosecution material gives rise to grave suspicion and discloses sufficient ground for proceeding against the applicants. At this stage, the Court is not expected to conduct a meticulous appreciation of the evidence or to determine whether the prosecution will ultimately succeed. The applicants have not made out a case for discharge warranting

interference in revisional jurisdiction under Sections 397 and 401 of the Code of Criminal Procedure. Hence, the following order:-

ORDER

- (a) Both Criminal Revision Applications are dismissed.
- (b) Pending applications, if any, stand disposed of.
- (c) The observations made in this order are confined to the adjudication of the present revision applications and the Trial Court shall not be influenced by the same while conducting the trial.

(SUSHIL M. GHODESWAR, J.)

25. After pronouncement of this judgment, the learned Advocate Mr. Ostwal for the Applicants prays for staying the effect and operation of this judgment.

26. The learned Standing Counsel for Respondent No.1/CBI, however, opposes this prayer.

27. Since stay has been operating in this application since 2023, I am inclined to grant stay to the effect and operation of this judgment for two weeks only. Accordingly, stay is granted for two weeks only.

(SUSHIL M. GHODESWAR, J.)

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