

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2195 OF 2026

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1. Dipakbhai Kakadiya ...Applicants
2. Brijesh Dipakbhai (Vinodbhai) Kakadiya

Versus

The Union of India & Anr. ...Respondents

Mr. Parvez Memon a/w Aditya Talpade, Pratik Karande, Akash Sable, Diksha Talpade & Prajwal Padole, for the Applicants.

Mr. Shyamrishi Pathak a/w Aryan Singh & Sangeeta Yadav, for Respondent No.1-UOI.

Mr. P. P. Jadhav, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED: 08 SEPTEMBER 2026

PC:-

1. Heard Mr. Memon, learned Counsel appearing for the Applicants, Mr. Pathak, learned Counsel appearing for Respondent No.1-Union of India and Mr. Jadhav, learned APP, for the Respondent-State of Maharashtra.

2. By this Anticipatory Bail Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the Applicants are seeking pre-arrest bail in connection with F. No. SG/MISC-167/2025-26/CIU/JNCH/PART XI on the file of the Central

Intelligence Unit, Mumbai Zone-II, Jawaharlal Nehru Custom House, Nhava Sheva, for the offences under the *Customs Act, 1962* (“**Customs Act**”).

3. It is the submission of Mr. Memon, learned Counsel appearing for the Applicants, that there are a total of eighteen Accused. Twelve Accused have been granted anticipatory bail and five Accused have been granted regular bail, out of whom one Accused is the son of the present Applicant. He submits that the son of the Applicant was in custody for 53 days. In fact, a statement was made before a learned Single Judge in Criminal Bail Application No.2933 of 2026 on behalf of the Union of India that the request for bail made in the said Application be considered, as the Central Intelligence Unit is not in a position to file the Complaint within the mandatory period of 60 days contemplated under Section 187 of BNSS.

4. Mr. Memon, learned Counsel submitted that the only material on the basis of which custody is sought is the statement of Co-Accused-Chirag Chamaria recorded on 4th June 2026. In this context, he submits that by Order dated 31st March 2026 passed

by the learned Additional Sessions Judge, Panvel, in Criminal Bail Application No.213 of 2026 anticipatory bail was granted to said Co-Accused-Chirag Chamaria and, as a condition of anticipatory bail, he was directed to attend the Central Intelligence Unit on 6th April 2026, 7th April 2026 and 8th April 2026. Learned Counsel submits that during those three days, nothing was stated by said Chirag Chamaria regarding the role of the the Applicants in the crime. However, on 4th June 2026, i.e., more than two months after obtaining anticipatory bail, said Co-Accused-Chirag Chamaria, for the first time, disclosed the role of the present Applicants in his statement recorded under Section 108 of the Customs Act. It is submitted that the said statement is exculpatory and, therefore, no reliance can be placed on such statement.

5. Mr. Memon, learned Counsel further submitted that although it is contended that the Applicants have created various entities, including M/s ABC Enterprise, the Applicants have a business relationship with the said M/s ABC Enterprise and have purchased various goods from said M/s ABC Enterprise. It is submitted that although it is the case of Respondent No.1 that the Applicants, through said Chirag Chamaria, created M/s Swastik

International, the Applicants have no relationship whatsoever with said M/s Swastik International or said Chirag Chamaria, including any business relationship. It is submitted that, pursuant to the statement recorded under Section 108 of the Customs Act of said Chirag Chamaria, a search was conducted at the house as well as the office of the Applicants, however, nothing was found in the said search. It is submitted that, as all the Accused except Applicants have been granted either regular bail or anticipatory bail, the Applicants be granted anticipatory bail on the ground of parity. It is submitted that, in fact, the statement of the Applicant's son has been recorded under Section 108 of the Customs Act, wherein it is stated by the son of the Applicant, i.e., Sneha Dipakbhai Kakadiya, that the Applicants are not involved in the crime. It is further submitted that the Applicants are ready to comply with any conditions and will attend the office of Respondent No.1 on as many occasions as Respondent No.1 requires him to do so. It is also submitted that, as said Chirag Chamaria is from Kolkata, the Applicants will not visit Kolkata.

6. On the other hand, Mr. Pathak, learned Counsel appearing for Respondent No.1-Union of India, submitted that although it is

contended that the Applicants have purchased goods from M/s ABC Enterprise, in fact, M/s ABC Enterprise has paid an amount of Rs.5,91,00,000/- to M/s Dipak Trading Co., which is a partnership firm of the Applicant and his brother. It is submitted that although it is the contention raised that the Applicants are not at all concerned with M/s Swastik International, which has been floated by Chirag Chamaria, M/s Dipak Trading Co. has paid an amount of Rs.8,20,00,000/- to said M/s ABC Enterprise, and said M/s ABC Enterprise has paid amounts to M/s Swastik International. It is submitted that Section 2 (3A) of the Customs Act contemplates that “beneficial owner” means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported. It is submitted that M/s Swastik International was created by said Chirag Chamaria and, in fact, the beneficial owners are the present Applicants. It is submitted that the Applicants are involved in evasion of duty and, therefore, the same is a punishable offence under Section 135 of the Customs Act, more particularly under Section 135(1)(b). It is submitted that the total amount of evasion of customs duty is about Rs.31 Crores. It is submitted that the Applicant has one antecedent of a similar nature, in respect of

which the offence has been compounded. It is submitted that the proviso to Section 137(3) of the Customs Act specifically provides that compounding can be only in respect of one offence under Sections 135 and 135A of the Customs Act. It is submitted that the offence is very serious and, therefore, custodial interrogation of the Applicants is necessary. To support the said contention, learned Counsel for Respondent No.1-Union of India has relied on the following decisions of this Court as well as of the Supreme Court:

- i. **Dipakkumar Dharamsinhbhai Kakadiya v. Directorate of Revenue Intelligence** ¹
- ii. **Mangesh S/o. Ranjit Jagtap v. State** ²
- iii. **Haribhau Dnyandev Chemte v. State of Maharashtra** ³
- iv. **P. Chidambaram v. Directorate of Enforcement** ⁴
- v. **Srikant Upadhyay v. State of Bihar** ⁵
- vi. **Harshad S. Mehta v. Union of India** ⁶
- vii. **Y.S. Jagan Mohan Reddy v. CBI** ⁷

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- 1** Anticipatory Bail Application No.1808 of 2025 (Decided on 31/07/2025) Bombay High Court
 - 2** Criminal Application (BA) No.422 of 2020 (Decided on 16/10/2020) Bombay High Court Nagpur Bench
 - 3** 2025 SCC OnLine Bom 3181
 - 4** (2019) 9 SCC 24
 - 5** (2024) 12 SCC 382
 - 6** 1992 SCC OnLine Bom 553
 - 7** (2013) 7 SCC 439

viii. **State v. Anil Sharma** ⁸

7. Perusal of the record shows that the Central Intelligence Unit, JNCH, initiated an investigation on the basis of specific intelligence regarding well-orchestrated *modus operandi* involving large-scale evasion of customs duty, for which purpose deliberate misdeclaration of the country of origin was made. The investigation has revealed that walnuts and raisins exported from Jebel Ali and other ports in the United Arab Emirates (UAE) to JNPT, India, were wilfully misdeclared as being of Afghan origin with the intent to fraudulently avail the benefit of South Asian Free Trade Agreement (SAFTA) notifications providing exemption from Basic Customs Duty at a nil rate.

8. During the investigation, it was found that *inter alia* the Applicants are involved in evasion of customs duty. There are about 28 Parts of the investigation concerning large-scale evasion of customs duty. As per the prosecution case, the Applicants are involved in Parts 11 and 22. Part 11 is concerning evasion of Rs.31 Crores in customs duty, whereas Part 22 is concerning Rs.9 Crores in customs duty. As far as the present Anticipatory Bail Application

8 (1997) 7 SCC 187

is concerned, it relates to Part 11, involving Rs.31 Crores.

9. During the investigation, the statement of Co-Accused-Chirag Chamaria was recorded by the Customs authorities on 4th June 2026. He stated that he is in the event management business and is from Kolkata. In the ordinary course of his business, he used to visit Mumbai for event-related and artist-related meetings. During one such event in or around 2024, he came into contact with Mr. Sneh Dipakbhai Kakadiya, i.e., the son of the present Applicant. Said Sneh Kakadiya attended the event as his guest and thereafter continued to attend several other events organized or connected with him. Over a period of time, he developed good personal relations with Sneh Kakadiya, i.e., son of the Applicant No.1. He further stated that he was facing severe financial difficulties in the event management business and due to financial constraints, requested Mr. Sneh Dipakbhai Kakadiya to guide or assist him in starting some side business through which he could earn additional income. Said Sneh Kakadiya suggested to him to form a firm for carrying out export and import business and, on his suggestion and assurance, the firm M/s. Swastik International was formed. He was assured that approximately Rs.20,000/- to

Rs.25,000/- per container imported in the name of his firm would be paid to him. He was also informed that all financial arrangements, identification and dealings with suppliers, identification of buyers, transportation, payment of customs duty and other operational aspects of the import business would be managed entirely by him and his father, Mr. Dipakbhai Kakadiya. He further stated that he had no independent financial capacity to import high-value walnut consignments and that the funds reflected in the bank account of M/s. Swastik International were arranged by Sneh Kakadiya or his father, Dikpakbhai Kakadiya, through various third-party bank accounts that were not directly connected with them.

10. In view of the statement of said Chirag Chamariya recorded under Section 108 of the Customs Act, it is relevant to note Paragraph No. 5(y) of the Affidavit-in-Reply filed by Bhasha Ram, Assistant Commissioner of Customs, Central Intelligence Unit, Nhava Sheva-General (NS-Gen), Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad, Maharashtra, dated 8th August 2026, which reads as under:

“y) The investigation, prima facie, establishes that the Applicant was the actual beneficial owner and controlling mind of the import transactions. Examination of bank accounts and financial records during investigation has corroborated the statement of Shri Chirag Chamaria and revealed a pattern of fund routing through multiple entities before ultimately reaching M/s Swastik International. The following transactions have been identified:

Sr. No.	From	To	Amount (in Rs.)
1	M/s Dipak Trading Co.	M/s Akash Enterprises	5,44,68,656
2	M/s Akash Enterprises	M/s Swastik International	4,20,00,000
3	M/s Dipak Trading Co.	M/s ABC Enterprise	8,20,00,000
4	M/s ABC Enterprise	M/s Swastik International	68,25,000
5	M/s ABC Enterprise	M/s Dipak Trading Co.	5,91,00,000
6	M/s ABC Enterprise	M/s Best Deal Traders	2,50,00,000
7	M/s Best Deal Traders	M/s Swastik International	7,60,00,000

The above financial transactions prima facie demonstrate the use of intermediary entities for routing funds connected with the import transactions and lend substantial corroboration to the statement of Shri Chirag Chamaria that the imports were financed and controlled by Shri Sneh Dipakbhai Kakadiya and Shri Dipakbhai Kakadiya while M/s Swastik International functioned merely as a front IEC holder. **The layering of funds through associated entities indicates a deliberate attempt to conceal the identity of the actual financiers and beneficial owners of the imports and necessitated detailed custodial interrogation to trace the complete money trail and identify all beneficiaries of the fraudulent transactions.**

Shri Chirag Chamaria has further disclosed in his voluntary statement that **funds were routed through cash/angadia channels**, indicating deliberate concealment of the true source of funds and beneficial ownership.”

11. Thus, what is relevant to note is that although there is no direct payment to M/s Swastik International by the Applicants' partnership firm, i.e., M/s Dipak Trading Co., the said partnership firm has paid huge amount of Rs.5,44,68,656/- to M/s Akash Enterprises and said M/s Akash Enterprises has paid Rs.4,20,00,000/- to M/s Swastik International.

12. It is further significant to note that huge amount of Rs.8,20,00,000/- has been paid by the Applicants' firm i.e. Dipak Trading Company to M/s ABC Enterprise and said M/s. ABC Enterprise has paid an amount of Rs.68,25,000/- to M/s Swastik International and Rs.2,50,00,000/- to M/s Best Deal Traders. It is significant to note that said M/s Best Deal Traders has paid an amount of Rs.7,60,00,000/- to M/s Swastik International.

13. Thus, *prima facie*, the statement of said Chirag Chamaria recorded under Section 108 of the Customs Act is substantiated by the other material collected during the investigation regarding several transactions with third parties who have made huge payments to M/s Swastik International. The material on record further shows that the Applicants' firm M/s. Dipak Trading Co. has

made huge payments to these third parties.

14. Thus, although, it is the contention of learned Counsel for the Applicants that the statement of the Applicant's son has also been recorded under Section 108 of the Customs Act and that the same is required to be taken into consideration, if the statement of said Chirag Chamaria, who is also a Co-Accused, recorded under Section 108 of the Customs Act, is being taken into consideration, it is very significant to note that, apart from the statement of said Chirag Chamaria recorded under Section 108 of the Customs Act, *prima facie*, there is material on record which substantially corroborates the statement of said Chirag Chamaria.

15. As far as the contention that a learned Single Judge has granted bail to the Applicant's son is concerned, a specific statement was made by learned Counsel for Respondent No.1, on instructions, that Respondent No.1 was not in a position to file a Complaint within the mandatory period of 60 days contemplated under Section 187 of BNSS. However, it is required to note Paragraph No.6 of the Order dated 3rd August 2026 passed by a learned Single Judge in Criminal Bail Application No.2933 of

2026, which reads as under:

*“6. Mr. S. R. Pathak, learned Standing Counsel for Respondent No. 1, in all fairness, on instructions from the Investigating Officer, Sumeet Bhonsle, Senior Intelligence Officer, CIU, Mumbai Zone-II, JNCH, Nhava Sheva, Taluka Uran, Dist. Raigad, who is present in Court, submits that **the Central Intelligence Unit is not in a position to file the complaint within the mandatory 60 (sixty) days contemplated under Section 187 of the BNSS, 2023. He submits that one of the reasons for not completing the said exercise is that the main accused is absconding.** He therefore, on instructions, submits that the Applicant's request for bail in the present Application be considered. He submits that this concession is on instructions and in view of the fact that the other four (4) accused, similarly situated to the Applicant in the present crime, have been released on bail.”*

(Emphasis added)

Thus, the statement made on behalf of Respondent No.1 is very specific. As per the said statement, since the main Accused is absconding, it is not possible to file a Complaint within the mandatory period of 60 days. The said main Accused are the present Applicants. There is material on record to show the involvement of the Applicants in the crime.

16. It is also required to be noted that there is an antecedent of a similar nature, being F. No. DRI/MZU/F/INT-32/Enq 17/2025 RA No 485 of 2025. Thus, there is an antecedent involving the same

modus operandi of the year 2025. In fact, the Applicants have filed a compounding application in the said case and has deposited Rs.5 Crores with Customs.

17. The Supreme Court in the decision of *Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. State of Maharashtra*⁹, has held that the anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner. There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offence. It has been further held that while exercising power to grant pre-arrest bail, the Court has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence.

18. The Supreme Court in the decision of *P. Chidambaram* (supra), has also held that power under Section 438 of the Code of Criminal Procedure, 1973 (“CrPC”) i.e. 482 of BNSS, being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. It has been held that economic

9 5 (2025) SCC OnLine SC 1489

offences stand as a different class as they affect the economic fabric of the society. It has been held that, in economic offences, the accused is not entitled to anticipatory bail. It has also been held by the Supreme Court that 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. It has been further held that 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.

19. In the decision of *State v. Anil Sharma* (supra), the Supreme Court, while setting aside the Order of pre-arrest bail granted by the High Court of Himachal Pradesh, has held that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of CrPC. It has been held that effective interrogation of suspected person is of tremendous advantage in disintering many useful information and also materials which would have been concealed. Success in such interrogation would

elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. It has been further held that very often interrogation in such a condition would reduce to a mere ritual.

20. This is a case where there is *prima facie* material to show that, at the instance of the Applicants and son of Applicant No.1-, Sneh, a firm M/s Swastik International, was formed by Co-Accused-Chirag Chamaria, and huge amounts were deposited in the account of said M/s Swastik International through certain other entities to whom the Applicant's firm had made substantial payments. Thus, there is strong *prima facie* case against the Applicants.

21. Thus, custodial interrogation in the present case is absolutely essential.

22. Accordingly, in the facts and circumstances, no case is made out for grant of anticipatory bail.

23. The Anticipatory Bail Application is dismissed.

24. However, it is clarified that the observations made in this

order are of *prima facie* in nature and made only for consideration of the prayer seeking anticipatory bail.

[MADHAV J. JAMDAR, J.]