IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 937 OF 2024

Kamlesh Hastimal Gandhi
Age 54 yrs, Occu. Agri.,
R/o. Opposite Z.P. School, New Dahifal,
Dahifal, Ahmednagar-414502. ....APPLICANT
(Ori. Accused)

Versus

1. The State of Maharashtra
Through Police Station Officer
Kotwali Police Station, Ahmednagar,
Dist. Ahmednagar.

2. The Superintendent of Police,
District Ahmednagar. ....Respondents.

Mr. Z.H. Farooqui, Advocate for the applicant.

Mr. S.P. Sonpawale, APP for respondents/State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1356 OF 2024
WITH
CRIMINAL APPLICATION NO. 3941 OF 2024

Girish Kedarnath Lahoti,
Age 32 yrs, Occu. Business,
R/o. Koradgaon, Tal. Pathardi,
District Ahmednagar. ....APPLICANT

Versus

The State of Maharashtra
Through Investigating Officer
in Crime No. 122/2022, Registered
at Kotwali Police Station,
Ahmednagar. ....Respondent.

Mr. R.F. Totla h/f. Mr. S.V. Lohiya, Advocate for the applicant.

Mr. S.P. Sonpawale, APP for respondent/State.

Mr. S.E. Shekade, Advocate for applicant in Cri. Appln. No. 3941/24.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1542 OF 2024

Navneet s/o. Shantilal Surpuriya,
Age 63 yrs, Occu. Business,

R/o. Plot No. B 03, 16A, Anand Rushi Road,
Behind Hotel Iris, Manik Nagar,
District Ahmednagar. ....**APPLICANT**

Versus

The State of Maharashtra ....**Respondent.**

Mr. S.G. Ladda, Advocate for the applicant.

Mr. S.P. Sonpawale, APP for respondent/State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 6 OF 2025

Dinesh s/o. Popatlal Katariya,
Age 51 yrs, Occu. Business,
R/o. i. 211/212, Goodluck Textile Market,
Ring Road, Gujrat.
ii. 404, Arihant Park Society, Sumul
Dairy Road, Arihant Building, Surat,
Gujurat. ....**APPLICANT**

Versus

The State of Maharashtra
(Through P.S. Kotwali, Ahmednagar.) ....**Respondents.**

Mr. S.G. Laddha a/w. Ms. Siddhi A. Kothari & Mr. A.P. Lohade, Advocate for the applicant.

Mr. S.P. Sonpawale, APP for respondent/State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 7 OF 2025

Shailesh s/o. Suresh Munot,
Age 53 yrs, Occu. Business,
R/o. Plot no. 5/1/B, Shriya Bangla,
Burudgaon Road, Docter Colony,
Near Sagar Videocon, Ahmednagar. ....**APPLICANT**

Versus

The State of Maharashtra
(Through P.S. Kotwali, Ahmednagar.) ....**Respondent.**

Mr. S.G. Laddha a/w. Ms. Siddhi A. Kothari & Mr. A.P. Lohade, Advocate for the applicant.

Mr. S.P. Sonpawale, APP for respondent/State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 2123 OF 2024

Rajendrakumar Atmaram Agrawal,
Age 62 yrs, Occu. Retired,
R/o. 64, Harmesh Society, Phase-I,
Nagar Pune Road, Shastri Nagar,
Pune-411 006. ....**APPLICANT**

Versus

1. The State of Maharashtra
Police Station Officer,
Kotwali Police Station,
Tq. & Dist. Ahmednagar.

2. The Superintendent of Police,
(Economic Offence Wing)
Ahmednagar, Dist. Ahmednagar ....**Respondents.**

Mr. R.R. Karpe, Advocate for the applicant.
Mr. S.P. Sonpawale, APP for respondents/State.

CORAM : ARUN R. PEDNEKER, J.
DATE : 29.01.2025

ORDER :-

1. Heard the learned advocates for applicants in respective matters, the learned APP for respondents/State and Mr. S.E. Shekade, learned advocate, assisting the learned APP in ABA No. 1356/2024.

2. The applicants are apprehending arrest in connection with the Crime No. 121/2022 dated 17.2.2022 registered with Kotwali Police Station, District Ahmednagar for the offences punishable under sections 409, 420, 467, 468, 471 r/w. 34 of Indian Penal Code and under sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

3. All these applications are taken up together as the applicants in these applications are on the Board of Directors of the Nagar Urban Co-operative Bank Limited, Ahmednagar (hereinafter referred to as 'the NUCBL bank' for

short). Above F.I.R. is lodged for large scale fraud by the Board of Directors and other persons incharge of the bank. Subsequently, the above bank's license to conduct the business of banking is forfeited by the Reserve Bank of India (hereinafter referred to as 'RBI' for short).

4. Facts in brief, leading to the filing of the F.I.R. are as under :-

One Rajendra Tarachand Gandi, who was the member and account holder/depositor of the NUCBL bank, lodged report in Kotwali Police Station 17.2.2022 for the aforesaid offences and Crime No. 121/2022 was registered on 17.2.2022. He was also member of the Board of Director of the NUCBL bank from 2008 to 2014.

5. It is alleged by the complainant that from the year 2015 because of the irregularities and non technical working, the depositors have not been getting dividends nor refund of their deposits. It is alleged by the complainant that the applicants were working as Chairman and the members of the Board of Directors and they were on the responsible posts in NUCBL bank. Their tenure was from the year 2014 onwards. It is alleged by the complainant that applicants in collusion with some of the borrowers prepared fake, forged and bogus documents including loan documents and valuation reports etc. and sanctioned the loan proposals indiscriminately by flouting the prescribed norms, rules and regulations and committed serious irregularities in loan transactions and ultimately defalcated huge amount of the members and investors of NUCBL bank and derived undue monetary benefits. It is alleged that the depositors of the bank have suffered loss as NUCBL bank is closed down and life saving of the depositors were washed away. On the basis of aforesaid F.I.R., crime is registered against the present applicants and others in Kotwali Police Station for the aforesaid

offences.

6. On the basis of complaint, forensic audit of the NUCBL bank was conduced through a Chartered Accountant Firm and in the said audit, fraudulent activities of the members of the Board of Directors along with the employees in charge are noticed. The applicants, thus, apprehends arrest and has filed the present anticipatory bail applications.

Submissions of applicant in ABA No. 937/2024

7. Learned counsel Mr. Z.H. Farooqui for the applicant submits that the applicant was the director of the NUCBL bank for the period of 1.12.2021 to 31.12.2023. However, R.B.I. by letter dated 6th December, 2021 issued directions under section 35-A r/w. Section 56 of the banking Regulation Act, 1949 (as applicable to Co-operative Societies), imposing restrictions on the NUCBL bank and therefore, the applicant effectively functioned as director from 1.12.2021 to 6.12.2021 i.e. for a period of six days only and that there is no misappropriation or that no loans are sanctioned during this period.

8. The learned counsel for the applicant further submits that auditor's report points out that the applicant's directorship was for the period from 2014 to 2019 and that the auditor has pointed out certain transactions of the borrowers/account holders with the wife of the applicant Dipti Gandhi of NUCBL, which is as under :-

"B. **Transactions as Receipt/(payments) of Funds from Borrowers/Account Holders of NUCBL are observed as mentioned below – in the Account of wife of the Directors**

Details of Transactions

Account Number	Date	Amount	Remark
1048040000001	07-01-2016	2,00,000	Amount transferred from Abhay Departmental Stores, the said was repaid by Ms. Dipti Gandhi on 25th May, 2016.

1048040000001	25-05-2016	(2,00,000)	Amount repaid by Dipti Gandhi to Abhay Departmental Stores
1048040000002	30-09-2015	6,00,000	Amount transferred from Ronak Enterprises to Ms. Dipti Gandhi
1048040000001	01-03-2016	1,00,000	Amount transferred from Ronak Enterprises to Ms. Dipti Gandhi
1048014000018	13-10-2015	(3,00,000)	Amount repaid by Dipti Gandhi to Ronak Enterprises
		--------	
Total		4,00,000	

It is thus alleged that Mr. Kamlesh Gandhi has derived a total benefit of Rs.4,00,000/- from the borrower of NUCBL bank M/s. Ronak Enterprises.”

9. The learned counsel for the applicant submits that the transactions as noted above by the auditor are of the year 2015-2016 and that he became director in the year 2021. It is submitted that the applicant and his wife are in business and the transactions noted above are ordinary business transactions made 4 to 5 years prior to the applicants election as director of the NUCBL bank. The error has crept in auditor’s report as the auditor has considered the names of the persons who are directors for the period from 2014 to 2019 and as such, further observations are made as regards transaction of the borrowers with the wife of the applicant from the year 2015 to 2016. The learned counsel submits that based on this error committed by the auditor, the auditor has mentioned that applicant has derived a total benefit of Rs.4,00,000/- from M/s. Ronak Enterprises, who is the borrower of the NUCBL bank. The learned counsel for the applicant, therefore, seeks to confirm the interim relief granted by this Court vide order dated 25.7.2024.

Submission of APP in ABA No. 937/2024

10. Learned APP Mr. S.P. Sonpawale for the State submits that the

applicant was director of the NUCBL bank for the period 1.1.2021 to 4.10.2023, however, the above transactions are observed with respect to Mrs. Dipti Gandhi (who is the wife of the applicant) with M/s. Ronak Enterprises (borrower of the bank) and there is no clear explanation as to why the above noted transaction has taken place and there is huge fraud and misappropriation of total of of Rs.29,25,61,000/- by all the accused including the present applicant.

11. The learned APP submits that it revealed from the audit that the applicant sanctioned loan proposal by accepting higher rate value report of the properties without verifying its value. It also appears from the record that during audit that various amounts are withdrawn in cash. It is the joint responsibility of the applicant to adhere all RBI guidelines. The learned APP points out that the applicant is habitual offender and crimes of serious natures are registered against him including the offences under Atrocities Act and the applicant has not cooperated with the investigation.

Submission of applicant in ABA No. 1356 of 2024

12. Learned counsel Mr. R.F. Totla h/f. Mr. S.V. Lohiya for the applicant submits that the applicant was the director of the NUCBL bank from the period starting from 1.12.2021 to 2023. However, the R.B.I. by letter dated 6th December, 2021 issued directions under section 35-A r/w. Section 56 of the banking Regulation Act, 1949 (as applicable to Co-operative Societies) and imposed restrictions on the NUCBL bank and therefore, the applicant effectively functioned as director only from 1.12.2021 to 6.12.2021 and that is no misappropriation or that no loans are sanctioned during this period.

13. The applicant and one Mr. Siddharth Challani are the partners of M/s. While Polychem. The applicant has borrowed loan for his business of

partnership firm M/s. While Polychem from the NUCBL bank in the year 2018. The loan amounts are as under :-

1. Rs.4,00,00,000/ (Mortgaged loan)
2. Rs.47,00,000/- (SSIL Machinery Loan)
3. Rs. 50,00,000/- (SSIL Machinery Loan)

The applicant has repaid all the above three loans on 31.3.2021 and to that effect the branch manager of the NUCBL bank has issued letter and certificate for three different accounts stating that the loan accounts are closed prior to the applicant's appointment as director. The certificates are annexed with the application. The applicant therefore prays for confirmation of interim relief dated 9.8.2024.

Submission of APP in ABA No. 1356/2024

14. The learned APP, so also Mr. S.E. Shekade, learned counsel assisting the APP submits that applicant and one Mr. Siddharth Challani are partners of M/s. White Polychem, which was established in the year 2014 located at Ahmednagar. M/s. White Polychem was customer of NUCBL from December 2014 to May 2021. On verification of Bank Account statements of M/s. While Polychem, it is observed that Rs.400 lakhs - advance to SSIL Hypothecation was disbursed in August 2018 and out of the said disbursement, funds were utilized to repay loan account of M/s. Shri Jagdamba Fuels Proprietary Concern of Mr. Kedarnath Lahoti (father of applicant). The learned APP further submits that the general allegations of misappropriation also applies to the present applicant.

Submissions of applicant in ABA No. 1542/2024

15. Mr. S.G. Ladda, learned counsel for the applicant submits that the applicant was the director of the NUCBL bank for the period from 2014 to

2019. The allegations against the applicants are noted in audit report, which reads thus :-

> **"A. DGTA's observation:**
> **Receipt from Borrower of the Bank :**
> With respect to above mentioned receipt from M/s. Kalpadruma Gems and Jewels India Limited, Mr. Navneetlal Shantilal Surpuria stated that he had earlier lent money to the Company and such amount was now being repaid by the Company.
>
> However, no such amount of receipt of loan has been found in the Bank Account Statement of M/s. Kalpadruma Gems & Jewels India Limited.
>
> Therefore, it is concluded that Mr. Navneetlal Shantilal Surpuria has derived a total benefit of Rs.30,00,000/- from M/s. Kalpadruma Gems & Jewels India Limited viz. A Borrower of the Bank."

16. As regards the observations made above, the learned counsel for the applicant submits that the applicant had given clear details about the transaction to the auditors. The learned counsel submits that the alleged transaction is between applicant and Kalpadruma Finserve Ltd. On 6.6.2015 the petitioner's firm had advanced hand loan of Rs.40,00,000/- through the bank to Kalpadruma Finserve Ltd. On the same date, an additional amount of Rs.20,00,000/- was transferred as a hand loan by the applicant's firm to Kalpadruma Finserve Ltd. Thus, the applicant had transferred total amount of Rs.60,00,000/- to Kalpadruma Finserve Ltd. The learned counsel submits that on 14.12.2015 the Kalpadruma Finserve Ltd. had transferred Rs.10,00,000/- to the applicant and on 17.12.2015 Kalpadruma Finserve Ltd. had transferred amount of Rs.20,00,000/- to the applicant. The learned counsel submits that thereafter, name of the Kalpadruma Finserve Ltd. was changed to Kalpadruma Gems and Jewels India Limited and the certificate

to that effect is annexed to the application. The learned counsel submits that after the change of name from Kalpadruma Finserve Ltd. to Kalpadruma Gems and Jewels Ltd. the new firm i.e. Kalpadruma Gems and Jewels Ltd. had returned Rs.15,00,000/- on 2.2.2016 and another Rs.15,00,000/- on the same day. Thus, Rs. 30,00,000/- were returned by Kalpadruma Gems and Jewels Ltd. The learned counsel for the applicant submits that entire advanced amount was returned by the firm and the applicant has not received benefit of Rs.30,00,000/- as noted in the audit report. The learned counsel submits that the bank may have suffered loss in the ordinary course of business and it could be possibly due to mismanagement of its employees and the applicant has not benefitted from the loan transactions.

17. As regards the allegation in respect of amount of Rs.72,75,22,558/- that the said amount has been withdrawn in cash from the NUCBL bank under the guise of loan transaction and amount of Rs.29,25,61,000/- has been misappropriated by the applicants is concerned, the learned counsel submits that the petitioner has no concern with the withdrawal and the account does not show that the applicant has withdrew any amount under the guise of loan transaction. As such, the learned counsel submits that further custodial interrogation of the applicant is not required and the interim protection granted to the applicant may be confirmed.

Submission of the learned APP in ABA No. 1542/2024.

18. Per contra, the learned APP submits that the applicant was director of the NUCBL bank for the period from 15.12.2024 to 31.7.2019 and also Vice-Chairman for the period from 17.10.2017 to 18.01.2019 and that he was the member of the executive committee, Loan Committee and Advisor

Committee. He attended 75 meetings of Board of Directors and other 30 meetings of the NUCBL bank for certain period.

19. As regards submission of the learned counsel for the applicant that the M/s. Kalpadruma Gems and Jewels India Ltd. has repaid all the amount, the learned APP submits that no receipt of such amount has been found in the bank account statement of M/s. M/s. Kalpadruma Gems and Jewels India Ltd. and therefore, the applicant has derived the benefit of Rs.30,00,000/- from M/s. Kalpadruma Gems and Jewels India Ltd., a borrower of the NUCBL bank.

20. The learned APP has also submitted that as per the forensic audit report all directors, committee members, officers, CEO and employees of the NUCBL bank including the present applicant are responsible for fraud and misappropriation of Rs. 29,25,61,000/-. The learned APP submits that it is revealed from the audit that the applicant along with other directors had sanctioned loan proposals by accepting higher rate value report of the properties without verifying its value. The learned APP submits that various different illegal methods were adopted by the applicants so as to cause huge loss to the NUCBL bank and due to the act of the applicants, the depositors and investors have suffered huge loss.

21. The learned APP submits that even for the sake of argument, if it is accepted that the auditor has not been able to find any banking transaction reflecting that the applicants have benefitted, the case is at the stage of investigation and for that purpose, custodial interrogation of the applicant is required to ascertain the entire conspectus of the matter. The learned APP submits that there is huge fraud and that the same cannot be completely unearthed without the custodial interrogation of the applicant.The same has

occurred due to various illegalities committed by the bank officials including the present applicant. The learned APP therefore prays to vacate the interim relief and dismiss the application.

Submission of applicant in ABA No. 6/2025

22. Mr. S.G. Ladda a/w. Ms. Siddhi A. Kothari and Mr. A.P. Lohade, the learned counsel for the applicant submits that the applicant is a resident of Surat, Gujarat and as such has no connection with the day to day business of the NUCBL bank and since the bank wanted to open a branch at Surat, the NUCBL bank has taken him as director. The applicant was never in the loan committee or any other Executive Committee. The learned counsel submits that during the tenure of the applicant as director, the applicant was present only in 14 board meetings and remained absent in 77 board meeting. So also the applicant was not present in any of the meeting wherein 31 loan proposals as mentioned in the F.I.R. were sanctioned. The learned counsel submits that the applicant has objected to the grant of certain loans being given, however, the loan has been granted by the NUCBL bank.

23. The learned counsel particularly points out that vide order dated 18.10.2024 passed in Bail Application No. 1273/24, this Court has granted bail to Anil Chandulal Kothari, who is the director of the NUCBL bank and this Court has considered that Mr. Anil Kothari had raised objection to grant of loan and the opinion of such objection was duly forwarded to Chairman, however, the Chairman proceeded to grant loan. The learned counsel submits that the applicant and others directors had also given negative opinion as to the grant of enhanced loan to M/s. Jaishankar Milk and Milk Products and M/s. Jaishankar Milk and Agro Products. It is also stated that

applicant was elected from Surat constituency as he resides in Surat. The bank had also passed a resolution and a multistate branch at Surat was to start and for that the petitioner was elected to be on the board of directors. There are no fixed deposits nor are there any loans sanctioned from NUCBL bank as there was no branch in Surat. It is also submitted that there is no transaction between the borrowers of the NUCBL bank with the applicant nor with the family members of the applicant. It is also stated that F.I.R. is registered as a personal vendetta of the complainant.

24. It is further submitted that the applicant has extended all cooperation to the Economic Offence Wing as well as the forensic auditor and had supplied all the relevant necessary documents as and when required. It is also stated that the financial position of the bank could show that the bank has assets worth more than the amount which has been alleged to be defrauded. It is also stated that other directors and other persons have been granted regular bail by this Court. It is also stated that the petitioner is not named in the F.I.R. and the provisions of MPID Act or any other provisions of IPC/BNS cannot be said to be attracted against the present applicant. It is stated that applicability of the MPID Act to the multistate cooperative banks is challenged before the Hon'ble Supreme Court and the same is pending. It is also stated that applicant has no role as regards HOIBT transactions and the responsibility for the same lies on the bank officials. It is further stated that the auditor report points out that there is no forgery and there is no cheating.

Submission of APP in ABA No. 6/2025

25. The learned APP submits that the applicant was on the board of directors of the NUCBL bank for the period from 15.12.2014 to 31.7.2019

and for the period from 1.12.2021 to 4.10.2023 and the applicant was the member of various committees like Committee of Audit, Legal Advisory and valuation etc. The learned APP submits that the above submissions made in other cases also applied to the applicant. The learned APP points out that as per the forensic audit of the bank, the applicant along with other accused is responsible for the fraud and misappropriation of the amount of Rs. 29,25,61,000/- of NUCBL bank.

Submissions of applicant in ABA No. 7/2025

26. Mr. S.G. Ladda a/w. Ms. Siddhi Kothari and Mr. A.P. Lohade, the learned counsel for the applicant submits that the applicant is a businessman and was on the Board of Directors of the NUCBL bank from the period 2008 to 2014, 15.12.2014 to 31.7.2019 and 1.12.2021 to 4.10.2023. The applicant was Vice Chairman of the NUCBL bank for the period from 25.1.2016 to 17.10.2017. The learned counsel submits that the F.I.R. against the present applicant is filed by the complainant out of personal vendetta and there is no evidence on record to show that the applicant was benefitted in any way out of the loan transactions. The learned counsel submits that on many occasions applicant objected to the loan proposals of the borrowers and in the meeting held on 18.5.2018 the applicant and other directors gave negative opinion in respect of proposal of enhancement of loan to M/s. Jaishankar Milk and Milk Products and M/s Jaishankar Milk and Agro Products and the forensic audit report also shows that the applicant had given negative opinion in respect of grant of loan to the above entity. The learned counsel submits that the auditors have held that the applicant is not responsible for any forgery of the documents and the applicant has no financial transactions with the borrowers or customers

of the bank. The learned counsel submits that the applicant has no direct involvement in the sanction of bogus loans. The learned counsel further submits that the applicant is not responsible for the HOIBT (Head Office Inter Branch Transaction) transaction and in respect of HOIBT transactions responsibility has been fixed on certain officers of the bank. The learned counsel for the applicant submits that there is no material on record to show that the applicant has cheated or has committed breach of trust and entire documentary evidence is on record and as such, custodial interrogation of the applicant is not required. After granting interim protection to the applicant, the applicant has extended all cooperation to the Economic Offence Wing as well as the forensic auditor and had supplied all the relevant necessary documents. The learned counsel submits that some of the directors have been released on regular bail and in view of the same, interim relief granted to the applicant needs to be confirmed.

Submission of APP in ABA No. 6/2025

27. The learned APP submits that the applicant was on the board of directors of the NUCBL bank for considerable period of time and the applicant was the member of various committees like Committee of Audit, Legal Advisory and valuation etc. The learned APP submits that it is revealed from the audit that the applicant along with other directors had sanctioned loan proposals by accepting higher rate value report of the properties without verifying its value. The learned APP submits that various different illegal methods were adopted by the applicants so as to cause huge loss to the bank and due to the act of the applicants, the depositors and investors have suffered huge loss. The learned APP submits that even for the sake of argument, if it is accepted that the auditor has not been able

to find any banking transaction reflecting that the applicants have benefitted, the case is at the stage of investigation and for that purpose, custodial interrogation of the applicant is required to ascertain the entire conspectus of the matter. The learned APP submits that there is huge fraud and that the same cannot be completely unearthed without the custodial interrogation of the applicant. The same has occurred due to various illegalities committed by the bank officials including the present applicant. The learned APP therefore prays to vacate the interim relief and dismiss the application. Besides the above submissions made in other cases also, the learned APP points out that as per the forensic audit of the NUCBL bank, the applicant along with other co-accused was responsible for the fraud and misappropriation of the amount of Rs. 29,25,61,000/-.

Submissions of applicant in ABA No. 2123/2024

28. Mr. R.R. Karpe, learned counsel for the applicant submits that the applicant was the director of the NUCBL bank from 2014 to 2019 and Chairman from December 2021 to July 2022. The learned counsel for the applicant submits that due to personal and political vendetta as well as personal grudge, the F.I.R. is filed against the applicant by the complainant, who was earlier director of the NUCBL bank. The learned counsel submits that no independent depositor has come forward and has lodged any grievance and the allegations against the applicant is purely general in character and the applicant has not benefitted from any of the loan transactions. The learned counsel submits that in the audit report it is stated that none of the members of Board of Directors have forged any document. The learned counsel submits that the applicant or his family members have not received single pie in connection with the bank

transactions with the borrowers. The learned counsel submits that the principal loan amount given by the bank to the borrowers is of Rs. 364.62 Crores whereas the value of the mortgaged properties qua these loans is of Rs. 491.23 Crores and as such, the financial condition of the bank is good.

29. The learned counsel for the applicant submits that the applicant is 62 years of age and he is a patient of diabetics. The applicant is advised to undergo angioplasty and therefore, unfit and would require medical assistance at the instance of medical experts time to time. After granting interim protection to the applicant, the applicant has extended all cooperation to the Economic Offence Wing as well as the forensic auditor and had supplied all the relevant necessary documents. The learned counsel submits that some of the directors have been released on regular bail and in view of the same, interim relief granted to the applicant needs to be confirmed.

Submission of APP in ABA No. 2123/2024

30. Per contra, Mr. S.P. Sonpawale, learned APP for the State submits that the applicant was director of the NUCBL bank for period 13.12.2014 to 31.7.2019 and was chairman of the bank from the period 1.12.2021 to 6.7.2022. The learned APP submits that the applicant was member of Loan and Deposit Committee and the applicant has attended 69 board meetings and 55 meetings of the loan committee during his tenure. The learned APP has reiterated the allegations against the applicant as noted in the above applications and submits that the applicant and other directors are responsible for the large scale fraud and misappropriation of the amount of the NUCBL bank, resulting in closure of the bank and depositors have lost their deposited amount. The learned APP, therefore, considering the above

has prayed for vacating the interim relief granted to all the applicants and prayed for rejection of the application.

CONSIDERATIONS

31. All the above applications are taken up together as the applicants herein are the Board of Directors of the Nagar Urban Co-operative Bank. FIR is lodged for large scale fraud and misappropriation of the amount of the depositors and investors by the member of the Board of Directors and the persons incharge of the NUCBL Bank. Subsequently, the licence to conduct the business of the bank is forfeited by the Reserve Bank of India.

Considerations in ABA Nos. 1542/24, 6/25, 7/25 & 2123/24

32. Statements of the various witnesses, who are depositors, investors and the borrowers, are recorded during the investigation. In their statements they have stated that there is huge illegal interest waiver scheme implemented by the directors and that amount was used by the directors. In the statements, it is further stated that higher amounts were sanctioned by the members of Board of directors than what was recommended by the credit department and the directors were allowed to withdraw the excess amount in cash. Software was developed to show back dated transactions, also HOIBT accounts were mis-utilized. It is also stated that account books were falsified. It is also stated that cash credit account was opened in which one rupee was deposited and Rs. 1.32 Crores were utilized and accordingly entries were taken for transfer of funds.

33. In the forensic auditor's report total amount of fraud is noted as Rs. 29,927.61 lakhs as noted below :-

> **"a. Total Amount of Fraud**
>
> Total Amount of Fraud on the basis of the

Loans/Financial Facilities examined / Funds Diverted is worked out to be **Rs.29,125.61 Lakh.**

b. Utilisation of Funds is segragated in – 10 (Ten) categorie as mentioned hereunder.

Sr. No.	Category	Number of Accounts	Amount Rupees in Lakhs
i.	Funds utilized for Business Purpose	10	2,751.82
	(Not treated as Siphoned Off)		
ii.	Consortium Finance – Funds transferred to Lead Bank. No follow up thereafter. No Communication with/from/to lead Bank and Borrowers	2	1,100.00
iii.	Funds siphoned of by transferring to Third Party (either borrower or Customer of NUCBL)	3	855.60
iv.	Funds utilized for Evergreeing	9	3,704.59
v.	Funds siphoned by Borrowers	91	29,927.33
vi.	Funds siphoned off – Since take over of NPA Accounts	3	613.17
vii.	Funds utilized for squaring HOIBT Transacrtions	5	916.22
viii.	Funds utilized for Purchase of Property from out of cash Credit/WCTL Accounts	4	693.20
		-----	------------
ix.	Total (ii to viii)	**117**	**37,810.11**
x.	Repayment of Loans	23	8,684.50
		-------	---------
xi.	Net Amount of Siphoned Off	**98**	**29,125.61**
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Borrowal Account wise information is given in **Chapter VII, Para 7.05.** on **Page Number 1191 to 1204.”**

34. The copy of order dated 4.10.2023 passed by the Executive Director of the Reserve Bank of India is placed on record. It shows that the RBI vide order dated 4.10.2023 has cancelled the licence of Nagar Urban Co-operative bank Ltd., Ahmednagar, Maharashtra and consequently, the bank ceases to carry on banking business, with effect from the close of business

on 4.10.2023. Consequent to the cancellation of its licence, bank is prohibited from conducting the business of banking which includes among other things, acceptance of deposits and repayment of deposits. In paragraphs 6, 7 and 8.5 of the the order dated 4.10.2024, cancelling the licence of the NUCBL bank it is observed as under :-

> "**6. Major irregularities observed in the Statutory Inspection of the bank with reference to its financial position as on March 31, 2021**:
>
> The major irregularities observed in the functioning of the bank during statutory inspection conducted by RBI with reference to its position as on March 31, 2021 are as follows:
>
> i. The functioning of Audit and compliance function in the bank was found to be unsatisfactory on account of following deficiencies:
>
> a) Most of the action paras from the Concurrent and Internal Audit reports were closed by mentioning as 'noted' and sustenance of compliance of previous RAR observations was not ensured.
>
> b) The activities of the Audit department were attended by an officer attached to Recovery department, which was in violation to RBI Master Circular on Inspection and Audit Systems DCBR.CO.BPD.(PCB). MC.No.3/12.05.001/2015-16 dated July 1, 2015.
>
> c) The scope and coverage of concurrent audit of the branches did not include areas such as verification of statements, comments on fraud prone areas and other sensitive areas.
>
> ii. The previous statutory inspection report based on financial position as on March 31, 2020, observed that 523 accounts (outstanding amount 208.42 crore) had turned NPA within a short span of one year of sanction. The bank was yet to examine the staff accountability in these cases of quick mortality accounts.

iii. The bank had taken membership of all the four CICs. However, it had shared credit information with only two CICs and had not obtained access to commercial database of any of the four CICS, violating Para 5.1.1 of RBI Master Circular on 'Management of Advances-UCBs' issued vide DCBR.BPD (PCB) MC No. 14/13.05.000/2015-16 dated July 01, 2015.

iv. The bank had exposure of ₹142.27 crore to Commercial Real Estate (CRE) sector which was 12.71% of Net Tolal Assets (1.119.38 crore). This was above the permissible limit of 10% and was in violation to Para 2.3.1 of RBI Master Circular on Exposure Norms and Statutory / Other Restrictions-UCBs dated July 01, 2015.

v. Bank Guarantees had expired but not reversed and two Bank Guarantees were issued for a period exceeding ten years. This was in violation of Para 1.1.3 of RBI Master Circular on Guarantees, Co-Acceptances & Letters of Credit - UCBs, issued vide DCBR BPD. (PCB) MC No. 8/09.27.000/2015-16 dated July 1, 2015.

vi. The bank had adopted system driven NPA identification and asset classification. However, the NPA dates differed for different accounts of the same borrower indicating that the system was not marking NPA accounts borrower-wise. Further, divergence in asset classification of NPA accounts to the extent of ₹44.66 crore in 13 accounts was observed and accordingly the bank was required to make additional provision of ₹16.32 crore. Thus, the bank was not adhering to instructions contained in RBI Master Circular DCBR.BPD. (PCB). MC No. 12/09 14.000/2015-16 dated July 1, 2015 on Income Recognition, Asset Classification, Provisioning and Other Related Matters - UCBs.

vii. As observed in the previous RBI inspection, on August 11, 2020, one of the panel valuers of the bank had approached the police for lodging First Information Report (FIR) against his staff for forging signature on the valuation reports in eight cases. The bank had classified all the accounts, where these valuation reports were obtained, as fraud and adequate provision was made accordingly. However, the bank had not obtained fresh valuation report for these properties till conclusion of inspection for FY 2020-

21.

viii. The bank had not prepared the Structural Liquidity Statements (SLSs) and Short-Term Dynamic Liquidity (STDL) statements as prescribed vide RBI Circular on Liquidity Risk Management System in Tier I UCBs- Guidelines UBD.PCB.Cir. No. 12/ 12.05.001/ 2008-09 dated September 17, 2008. The bank had not set internal limits for negative gaps in Interest Rate Sensitivity (IRS) statements.

ix. Out of 3,04,773 customers (as per unique customer number), 57.32% i.e., 1,74,705 customers were KYC non-compliant, including 1,18,123 operative customer accounts, ie, 38.75% of the total customers. Between April 1, 2017 and November 25, 2021, 59,409 customer accounts were created, out of which CKYC had not been generated for 45,739 (76.99%) customer accounts. This was in violation of Para 56 of RBI Master Direction No.81/14.01.001/2015-16 dated February 25, 2016 on 'Know Your Customer (KYC) Direction, 2016".

x. A total of 18 frauds were outstanding as per statutory inspection report for FY 2020-21 Further, the bank had reported 11 frauds (amounting to 97.45 crore) in FY 2020-21 indicating weak internal control systems.

xi. The bank had neither submitted flash reports to RBI with brief details of the frauds within a week of such frauds nor submitted monthly certificate soft copy of all frauds of ₹0.01 crore and above, in contravention to RBI Master Circular on Frauds Classification and Reporting, DCBR.CO. BPD MC.No. 1/12.05.001/2015-16 dated July 1, 2015.

7. The major irregularities observed in the Statutory Inspection with reference to financial position as on March 31, 2022:

i. The functioning of Audit and compliance function in the bank continued to be unsatisfactory on account of following deficiencies:

a) Most of the action paras from the Concurrent and Internal Audit reports continued to be closed by mentioning as 'noted' despite being pointed out in previous inspection report.

b) Forensic Audit of eight loan accounts reported as fraud in FY 2020-21 was carried out by external firm and the report highlighting gross negligence on the part of the bank officials in violating extant guidelines for loan processing was put up to Chairman. However, no subsequent actions to ensure non-recurrence and fixing staff accountability was evidenced by the bank.

c) Considerable delays upto eleven months were observed in submission of internal and concurrent audit reports.

d) The Audit function was not independent and the Head of Audit also headed the loan/credit department and reported to CEO instead of directly reporting to Chairman as per RBI Master Circular on Inspection and Audit Systems. No meeting of the ACB was held after December 01, 2021.

e) Incidents of third party set-off of loans in contravention with AID guidelines and refund of share capital without approval of RBI were highlighted by concurrent auditors.

f) The bank had not formulated a Risk Management Policy despite several lapses being pointed out in the previous Risk Assessment Reports (RAR).

ii. There were 16 One Time Settlement (OTS) cases sanctioned by the bank before imposition of AID, out of which 10 cases had crossed the OTS tenure of 11 months but the amount had not been realized. The bank had neither followed up with these borrowers nor revoked the OTS.

iii. The bank had not reversed 82 expired/closed BGs in CBS with an aggregate value of ₹17.89 crore.

iv. In case of one borrower, the bank had settled the loan amount by third party set-off from six accounts thereby violating para 3(b) of the RBI Directive dated December 06, 2021.

v. In 37 accounts, the bank had adjusted the share amount against the loan account of the shareholder with total amount of ₹0.21 crore which was in violation of RBI directions issued vide letter DOS.CO.Mumbai. No./158/2020-21 dated January 13, 2021.

vi. Despite being pointed out in previous reports, the CERSAI registration of eligible accounts was not completed. Out of 1089 eligible accounts, 804 accounts (73.83%) were pending to be uploaded which accounted for 57.36% (₹311.48 crore) of outstanding loans and advances

vii. The bank was not sharing credit information with all the four CICs, which was in violation of the RBI Master Circular DCBR BPD.PCB.MC No. 14/13.05.000/2015-16 dated July 01. 2015

viii. There were 1.93 lakh customers (63.53%) out of total 3.04 lakh customers where KYC status were non-compliant. In case of some KYC compliant customers, no valid documents or document number was captured in the CBS, The KYC data of 1,166 out of total 59,409 individual accounts opened since April 01, 2017 was pending for uploading on CKYCR in violation to the extant guidelines. The bank did not have a mechanism to conduct the periodic KYC updation of customers based on the risk category in violation to the RBI Master Direction, DBR AML BC No.81/14.01.0012015-16 dated February 25, 2016.

ix. A total of 23 cases of fraud amounting 89.43 crore were outstanding. During the 2021-22, the bank had reported one fraud of ₹5.24 crore which involved 159 borrower accounts pertaining to fake valuation of gold omaments kept as collateral for loans sanctioned in a branch

x. The inability of the bank to improve recoveries, curb the NPAs, the lack of HR planning. inability to develop second line of employees for critical areas, non-sustenance of compliance to action points highlighted in inspection reports of RBI, inability to fix staff accountability, etc. reflect the ineffectiveness of Senior Management.

xi. No professional directors were co-opted by the BoD. The BoD comprised of seven members (including the Chairman) from the erstwhile Board which was superseded in 2019. Further, no Annual General Meeting (AGM) was convened within six months after close of FY 2021-22 in contravention of Multi State Cooperative Societies Act, 2002

> (MSCS Act, 2002) and the bye-laws of the bank. The last AGM for FY 2017-18 was convened by the bank in September 2018.
>
> xii. Despite high GNPAs, gold loan fraud and other cases of negligence of bank officials, no staff accountability study was evidenced. The bank did not have a documented cyber security policy and there was no cyber crisis management plan. Some of the members of the BoD were continuously absent from the Board meetings.
>
> xiii. The compliance culture in the bank was deficient as there was no formal compliance mechanism in place and non-adherence to several statutory and regulatory guidelines were observed. Further, no disciplinary action through staff accountability policies for non-compliance was evidenced."

35. From the forensic audit report, the statements recorded by police and also from the order of R.B.I. for closure of NUCBL bank, it is apparent that the Board of Directors are primarily responsible for large scale fraud resulting in the depositors loosing their money.

36. The law as regards grant of bail in economic offences is discussed in the below noted judgment of the Hon'ble Supreme Court. The Hon'ble Supreme Court, in para 22 and 23 of the judgment delivered in the case of **Tarun Kumar Vs. Assistant Director Directorate of Enforcement, reported in AIR 2024 SC (Criminal) 217** has observed as under :-

> "22. Lastly, it may be noted that as held in catena of decisions, the economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country. Undoubtedly, economic offences have serious repercussions on the development of the country as a whole. To cite a few judgments in this regard are Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation, Nimmagadda Prasad v.

Central Bureau of Investigation, Gautam Kundu v. Directorate of Enforcement (supra), State of Bihar and Anr. v. Amit Kumar alias Bachcha Rai. This Court taking a serious note with regard to the economic offences had observed as back as in 1987 in case of State of Gujarat v. Mohanlal Jitamalji Porwal and Anr. as under:

> 5... The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest...

23. With the advancement of technology and Artificial Intelligence, the economic offences like money laundering have become a real threat to the functioning of the financial system of the country and have become a great challenge for the investigating agencies to detect and comprehend the intricate nature of transactions, as also the role of the persons involved therein. Lot of minute exercise is expected to be undertaken by the Investigating Agency to see that no innocent person is wrongly booked and that no culprit escapes from the clutches of the law. When the detention of the Accused is continued by the Court, the courts are also expected to conclude the trials within a reasonable time, further ensuring the right of speedy trial guaranteed by Article 21 of the Constitution."

37. The Hon'ble Supreme Court, in para 80, 81, 82 and 83 in the case of **P. Chidambaram Vs. Directorate of Enforcement reported in (2019) 9 SCC 24** has observed as under :-

"80. Observing that economic offence is committed with deliberate design with an eye on personal profit regardless to the consequence to the community, in *State of Gujarat v.*

Mohanlal Jitamalji Porwal and Ors., it was held as under (SCC p. 371, para 5):

> 5. ....The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest.....

81. Observing that economic offences constitute a class apart and need to be visited with different approach in the matter of bail, in *Y.S. Jagan Mohan Reddy v. CBI* , the Supreme Court held as under: (SCC p. 449, paras 34-35)

> "34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.
>
> 35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the Accused, circumstances which are peculiar to the Accused, reasonable possibility of securing the presence of the Accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."
>
> (emphasis supplied)

82. Referring to *Dukhishyam Benupani, Assistant Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria* in

Directorate of Enforcement v. Bher Chand Tikaji Bora, while hearing an appeal by the Enforcement Directorate against the order of the Single Judge of the Bombay High Court granting anticipatory bail to the Respondent thereon, the Supreme Court set aside the order of the Single Judge granting anticipatory bail.

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.***"

(emphasis supplied)

38. Considering the law as noted in above judgments of the Hon'ble Supreme Court and the material available with the Investigating Officer, it appears that there is large scale fraud committed by the directors of the NUCBL bank. There is huge misappropriation of the amount of the depositors and investors. The ordinary depositors have lost their hard earned money and life long saving. Police have collected various statements of the witnesses like depositors and borrowers, which point the complicity of the directors in collusion with some of the borrowers and large scale fraud is committed resulting in misappropriation of money. In view of the above, it is necessary to ascertain the assets of the directors to recover the outstanding loan in terms of provisions of the M.P.I.D. Act and the liability will have to be fixed and the case would also require further custodial investigation of the applicants to unearth the complete fraud in the matter. The fraud committed is of large magnitude and the applicants are directly

involved in the fraud, as such this is not a fit case for grant of anticipatory bail. Considering the above, the applicants in above applications are not entitled for any relief. Hence, the interim protection granted against them needs to be vacated and their applications for grant of anticipatory bail is rejected.

Consideration in ABA No. 937/2024 and 1356/2024

39. In the above two applications, the contention of the applicants is that the applicants were the member of Board of Directors for the period of only six days and therefore, applicants effectively functioned as Directors for the six days only and during that period no loans were sanctioned and no amount was misappropriated.

40. The copy of order dated 4.10.2023 passed by the Executive Director of the Reserve Bank of India is placed on record. It shows that the RBI vide order dated 4.10.2023 has cancelled the licence of Nagar Urban Co-operative bank Ltd., Ahmednagar, Maharashtra and consequently, the bank ceases to carry on banking business, with effect from the close of business on 4.10.2023. Consequent to the cancellation of its licence, NUCBL bank is prohibited from conducting the business of banking which includes among other things, acceptance of deposits and repayment of deposits. In para 8.5, of the order dated 4.10.2023 passed by the R.B.I., it has observed as under :-

> "**8.5 Violation of All-inclusive Direction issued by RBI under Section 35 A read with Section 56 of the Act**:
>
> In case of one borrower, the bank had settled the loan amount by third party set-off from six accounts thereby violating para 3(b) of the RBI Directive dated December 06, 2021. In response the bank has stated that the transaction between concerned parties took place before imposition of

> AID and that the transaction was undertaken in order to safeguard the recovery and to achieve win-win situation for all. The bank has submitted that it is fully extending its co-operation and support towards ensuring a turnaround for the improved performance at all levels and financial parameters
>
> **RBI Comments:**
>
> The bank violated terms of AID by allowing third party set-off of loans against deposits leading to preferential payment to depositors and also adjusting share amount against loan account in a few cases. The submission of the bank on the matter is incorrect. **The All-Inclusive Directions was imposed on the bank on December 6, 2021 and transactions took place after imposition of AID, i.e. on December 31, 2021 and March 31, 2022.** The bank informed RBI vide letter dated March 29, 2022 against which clarification was issued by RBI vide mail dated April 20, 2022 that this amounts to violation of AID and the bank was advised to reverse the transactions. However, till the date of conclusion of inspection for FY 2021-22, the bank had not taken any action in this regard. Therefore, the bank's reply in this regard is found to be unsatisfactory."

41. From the above noted order dated 4.10.2023 of R.B.I., it is apparent that the R.B.I. in above para has clearly mentioned that even after all inclusive directions were issued on the NUCBL bank on 6th December, 2021, transactions were undertaken on 31st December, 2021 and 31st March 2022. Therefore, the R.B.I. had asked the NUCBL bank to reverse the transactions, however, till the conclusion of FY 2021-22, the bank had not taken any action in this regard and the NUCBL bank has further indulged in illegal activities. Considering the same, the contention of the applicants in these applications that they have only directors effectively of the bank from 1st December 2021 6th December, 20211 is not acceptable and the case would require further investigation in the matter.

42. In the forensic audit, the auditors may not have found transactions linking the directors to the borrowers. Few transactions that are noted between the borrowers and the directors may even be explained. But it is to be noted that the auditors did not have full access to all the accounts of all the directors and the illegal transactions with borrowers can also be in cash. But merely because the bank accounts produced by the directors/applicants did not show transactions with the borrower is no indication that the directors are not involved in the fraud. Also grant of regular bail to other directors would not entitled the applicants for anticipatory bail.

43. In view of the above, at this stage, prima facie, I am of the view that the NUCBL bank has failed on account of systematic fraud played by the persons incharge of the bank i.e. Board of Directors and the senior-most functionaries of the bank and the bank has not failed on account of mere mismanagement. Considering the above, the applicants in all the above applications are not entitled for any relief. Hence, the interim protection granted against them needs to be vacated and their applications need to be rejected.

44. In view of the above, I hold that no case is made out for grant anticipatory bail in favor of the applicants. So, the interim protection granted earlier in these applications stand vacated. All the applications are dismissed. In view of the dismissal of the anticipatory bail applications, other applications, if any, are also disposed of.

45. It is clarified that the observations made in this order are limited to the disposal of the present bail application. While considering the regular

bail application and at the stage of trial, the concerned Court shall not be influenced by the observations made hereinabove.

[ARUN R. PEDNEKER, J.]

45. At this stage, the learned counsel for the applicants prays for continuation of interim relief. The prayer for continuation of interim protection in all the matters is rejected.

[ARUN R. PEDNEKER, J.]

ssc/