



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

CRIMINAL WRIT PETITION NO.815 OF 2024

- 1) Abhyudaya Co-op. Bank Ltd.,
Having its administrative office at
K.K. Tower, Abhyudaya Bank Lane,
Off. G.D. Ambedkar Marg, Parel Village,
Mumbai-400 012, represented by its
Officiating Manager,
- 2) Shri Vijay Murlidhar Pathak,
Indian Adult Aged-48 years,
Working with Petitioner No.1 Bank
as Officiating Manager having
Office at Abhuyudaya Co-op. Bank
Ltd., Station Road Branch,
Aurangabad-431001.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through Economic Offence Wing,
Chhatrapati Sambhajinagar,
Office of Commissioner of Police,
Mill Corner, Aurangabad-431 001
Represented by Public Prosecutor,
- 2) Mr. Sunil L. Somvanshi,
A-1/11, Bhosale Paradise,
Off Range Hills Road,
Pune-411 020.

...RESPONDENTS

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Mr. Sanjeev Punalekar Advocate (OnLine) h/f. Mr. Ram
S. Malani Advocate for Petitioners.
Mr. Abhijeet M. Phule, A.P.P. for Respondent No.1.
Mr. Aniruddha A. Nimbalkar Advocate for Respondent No.2.
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**CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATE : 16th SEPTEMBER, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. The petitioner Bank and the Officiating Manager thereof have filed the present Petition for quashing the decision of the police to add Section 409 of the Indian Penal Code to Crime NO.15 of 2024 registered with City Chowk Police Station, Aurangabad, District-Aurangabad.

2. The learned Advocate appearing for the petitioners submitted that one company by name, Nirmangold Alloys Private Limited had availed credit facilities from the petitioner Bank. One Mr. Bhushan Pundalik Patil was the managing director of the said company. The credit facilities originally were availed by the borrower company in the year 2015 and they were reviewed/renewed and enhanced from time to time. The personal guarantee of respondent No.2 was given. However, the borrower company became Non-Performing Asset (NPA). The Bank had then initiated measures for recovery and filed Arbitration Dispute under Section 84 of the Multi-State Co-

operative Societies Act, 2002. The award came to be passed, holding the original borrower as well as respondent No.2 guarantor jointly and severally liable to pay Rs.7,56,24,882.40 together with interest at the rate of 11.50% with effect from 01.05.2022. The company had filed petition under Sections 8 and 9 of Insolvency and Bankruptcy Code on 22.11.2021. The borrower company had mortgaged 16 shops which were acquired by it from respondent No.2. Mortgage deed was executed on 11.07.2018. The guarantee documents were operational, however, respondent No.2 filed First Information Report vide Crime No.15 of 2024 on 10.01.2024 against original borrower Mr. Bhushan Pundalik Patil and two others for the offence punishable under Sections 406, 420, 120-B and 34 of the Indian Penal Code. The investigation is with Economic Offence Wing. Now the Economic Offence Wing has made communication on 21.03.2024 to the learned Judicial Magistrate First Class stating that they would be adding Section 409 of the Indian Penal Code to the First Information Report. There is no question of invoking the said Section taking into consideration ingredients and the facts alleged. The First Information is absolutely silent about involvement of the Bank.

3. The learned APP, upon instructions, makes a statement that taking into consideration the prayer which is limited, not to invoke Section 409 of the Indian Penal Code, the investigating officer before filing the charge-sheet would certainly consider, as to whether the said Section is applicable or not and then would take decision.

4. Under such circumstance, when that statement is made on behalf of the investigating officer, the purpose of the Petition is served. Ultimately the First Information Report cannot be quashed partly only at this stage without going through the documents. But when the investigating officer is giving assurance that he would look into the aspect, as to whether that Section is made out or not, then that is sufficient. Hence, we dispose of the Writ Petition.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE