IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 935 OF 2025

1. Shubham S/o Raju Ghatol,
Age: 27 yrs, Occu: Service,
R/o: Gavlipura, Tq: Hingoli, Hingoli

2. Pradip S/o Krushnarao Patki,
Age: 60 yrs, Occu: Service,
R/o: Kasarwada, Tq. Hingoli, Hingoli. … Applicants

Versus

State of Maharashtra … Respondent

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Appearance :
Mr. Swapnil S. Rathi, Advocate for Applicant No.1.
Mr. Shailendra S. Gangakhedar, Advocate for Applicant No.2.
Mr. B. B. Bhise, APP for the Respondent - State

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CORAM	**:**	**NEERAJ P. DHOTE, J.**
RESERVED ON	**:**	**29.09.2025**
PRONOUNCED ON		**09.10.2025**

FINAL ORDER :

1. This is the Anticipatory Bail Application in Crime No.0282/2024, registered with Hingoli City Police Station, District Hingoli, for the offences punishable under Sections 408, 409, 420, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (hereinafter referred to as ‘IPC’) and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. The aforesaid Crime is registered on the report lodged by a Certified Auditor. The Assistant Registrar, Co-operative Societies, Hingoli, directed the Informant to conduct an audit of the Anuradha Urban Co-operative Credit Society Limited, Hingoli [For short 'the Society'] for the period from 01/04/2022 to 31/03/2023. He accordingly conducted the audit of the Society for the period from 24/12/2019 till 26/02/2024 and submitted the Audit Report to the Assistant Registrar, Co-operative Societies, Hingoli that, the Board of Directors, Manager, Passing Officer and Cashier committed defalcation of the funds of the Society amounting to Rs.6 Crores and odd amount. The Assistant Registrar, Co-operative Societies, Hingoli, authorized the Informant to lodge the report and accordingly, First Information Report (FIR) was lodged. It is the case of the Prosecution that, the FIR named accused in connivance have created forged resolutions, showed false loan accounts, fabricated the signatures, and committed fraud and misappropriated the funds of the Society.

3. The learned Advocate for Applicant No.1 submits that, the Applicant No.1 was the Cashier, who had no role in disbursement and sanction of the loan. Not a single rupee was paid to him. The Applicant

No.1 was falsely implicated in the Crime. The office bearers of the Society are responsible for the Crime. The Applicant No.1 attended the Police Station and had co-operated.

4. The learned Advocate for Applicant No.2, submits that, the Applicant No.2 is the Manager of the said Society. He was not involved in the decision-making process. The Applicant no.2 had no knowledge and the report is lodged behind his back. The Auditor has not communicated the shortfalls to him, and no process under Section 81 of the MCS Act is followed. The document is in the custody of Police. The resolution is fabricated by Accused Nos.1 and 2, who are behind the bars. The custodial interrogation of the Applicant is not necessary and he be protected. He submits that, the Applicants in these Applications are whistle blowers and they filed complaint to the DDR about the involvement of the Accused No.1 in the crime. He further submits that, the Auditor is made Accused in one Crime No.0640/2025, registered with the Hingoli City Police Station in respect of defalcation in Mahila Urban Co-operative Credit Society Limited, Hingoli. In support of his contention, he relied on the reported Judgment of this Court in Yashapal Nathuram Janwani & Others Vs. State of Maharashtra & Anr.; 2013 ALL MR (Criminal) 3794.

5. It is submitted by the learned APP assisted by the learned Advocate for Depositors that, the FIR is based on the Audit Report. In the investigation, the report gets corroboration. The witnesses did not sign the loan papers, and still the loan is shown to have been sanctioned and disbursed in their names. There are more than 400 depositors, and the amount misappropriated is in crores. The nature of crime show that, it is not possible without the connivance of all the accused persons. For proper investigation of the case, the Applications be rejected.

6. As regards the submission that no procedure under the MCS Act is followed, It would not be out of place to refer to the decision of the Hon’ble Supreme Court of India in Dhanraj N. Asawani Vs. Amarjeetsingh Mohindersingh Basi and Others; (2023) 20 SCC 136, wherein, the provision of Section 81 of the MCS Act is considered and it is observed that, Section 81(5B) of the MCS Act cannot be interpreted to mean that, any other person, who comes to know about the financial irregularity on the basis of the audit report, is debarred from reporting the irregularity to the police other than an auditor or the Registrar from setting the criminal law into motion. It is further observed that, once the

criminal law is set into motion, it is the duty of the police to investigate into the alleged offence and that process cannot be interdicted by relying upon the provisions under Section (5B), which cast a duty on the auditor to lodge a First Information Report. Moreover, the FIR itself shows that, the Informant was the authorized auditor and he lodged the report on the directions and authorization from the concerned Assistant Registrar of the Co-operative Societies. Therefore, the contention that, due to non-observance of the procedure prescribed under the MCS Act, the Applications be allowed, has no merit.

7. Undisputedly, the Crime is based on the Audit Report conducted by the Informant and he noticed several illegalities, like preparing false resolution, making fake loan cases and documents, making false endorsements, disbursing unsecured loan, not accepting the security cheques against the loans to the known persons of the Directors, absence of gold in some of loan cases, illegalities / irregularities in disbursing the loans, withdrawal of investments and misappropriation of the Society's funds. The overdraft loan to the tune of Rs.1 Crore and odd amount was taken from Dr. Jayprakash Mundada Bank through a cheque instead of depositing the same in the Society's account. One signature on the

withdrawal slip in respect of the withdrawal of the amount from the reinvestment deposit loan account of the Hingoli Urban Nidhi, Hingoli, which had deposited certain amount with the Societies, did not match with one of the authorized signatory of the said Hingoli Urban Nidhi. The investigation revealed that, the false loan accounts were shown and money was misappropriated. The statements of witnesses recorded during the course of investigation indicate that, they had never applied for the loan, nor withdrawn the amount of loan, and the signatures on the documents were not of theirs. Taking into consideration the nature of the offence involving the funds of the Society, the Applicants cannot shirk the responsibility by saying that, they have nothing to do with the same. The Applicants are the Cashier and Manager of the Society. They are the persons dealing with the day-to-day affairs of the Society. The copy of order dated 09/07/2024 in Anticipatory Bail Application No.981/2024 show that, the said Anticipatory Bail Application was filed by Applicant No.2 – Pradip Krushnrao Patki and was withdrawn as the Court expressed disinclination to allow the same. Though the Police Report indicates that, the charge-sheet is submitted against the arrested accused, it further indicates that, there are large number of investors and investigation is going on. Taking into consideration the nature of offence and in view of the above discussion in my view, this is not the fit case for protection under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and hence, the following order :

ORDER

. Anticipatory Bail Application is rejected.

[NEERAJ P. DHOTE, J.]

Sameer/October-2025