

IN THE HON'BLE HIGH COURT OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. _____ OF 2025

DISTRICT: MUMBAI

Sanjay Hariram Agarwal

...Petitioner

Versus

State of Maharashtra & Anr.

...Respondents

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Challenge in brief -

By way of the present Criminal Writ Petition the Petitioner *inter alia* seeks that this Hon'ble Court by invoking the Writ Jurisdiction under Article 227 of the Constitution of India and Inherent powers under Section 528 of BNSS may issue appropriate writ, order or direction and the order dated 21.03.2025 passed by the Ld. Additional Chief Judicial Magistrate, 37th Court, Esplanade, Mumbai in C.C. No. 388/2023, whereby charges have been framed against the Petitioner for offences under Sections 420, 467, 468, 471 and 120-B r/w 34 of IPC may kindly be quashed and set aside.

SYNOPSIS

The Petitioner herein is constrained to file the present Criminal Writ Petition being gravely aggrieved by the order whereby the Ld. A.C.J.M., Esplanade, Mumbai has directed framing of charges against the Petitioner under Sections 420, 467, 468, 471 and 120-B r/w 34 of IPC, though the allegations in the complaint and the



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material placed on record relate entirely to commercial transactions in Government Securities between the Surat Nagari Sahkari Bank and various entities, including Home Trade Ltd. The impugned order is legally unsustainable, suffers from total non-application of mind, and has resulted in a manifest error in law.

In the present case, the real question before the Ld. Trial Court was to test whether any ingredients of Sections 420, 467, 468, 471 or 120-B are made out at all, particularly when the prosecution case is founded entirely on contract notes, Government Securities, and cheques. A bare reading of the complaint reveals that the allegations concern alleged non-delivery of certain Government Securities, which does not establish cheating at inception, removal of property, fraudulent prevention of debt, or forgery not attributable individually to the Petitioner and is purely a case of civil nature of specific performance or recovery of money.

The brief prosecution story, as alleged is that Surat Nagarik Sahakari Bank had previously purchased Government Securities from the Company and that those securities were physically delivered, were transferred in the Bank's name. It is pertinent to mention that on 16.12.2001, a meeting was held wherein the Company offered to sell existing Government Securities worth ₹12.50 crore, and allegedly advised purchase of new securities at lower rates. On invitation of offers from different entities, HTL was selected for the said purpose. Pursuant thereto, on 07.12.2001, HTL agreed to deliver securities worth ₹15 crore.

Thereafter, on 21.02.2002, representatives of the Company allegedly proposed selling the earlier ₹15 crore securities and



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purchasing new securities yielding higher interest. Accordingly, the Bank agreed to sell securities worth ₹15 crore and purchase securities ₹16,09,60,500/- (Rupees Sixteen Crore Nine Lakh Sixty Thousand Five Hundred Only) inclusive of premium and interest, with delivery promised.

It has been alleged that the said securities have not been delivered and even the cheques issued for payment of the said amount was not honoured. Pertinently, the complaint does not allege anywhere that the Petitioner prepared, signed, supplied, authorised, or personally used these receipts. No document is attributed to his authorship or custody, nor is there any specific averment connecting him with their origin.

Notably, the documents with the chargesheet itself records that a meeting of office bearers of the Bank was held on 06.12.2001, 12.12.2001, 19.02.2002, 27.02.2002, and 26.03.2002 and that *“after extensive discussion and deliberation regarding the purchase and sale of Government Securities, the following transactions were finalized,”* which involved invitation and quote from involving multiple brokers and after due deliberations by Bank’s Fund Committee, the HTL was selected. This prosecution material confirms that the transactions were undertaken by the Bank after its own independent deliberations, and contains no allegation of inducement, forgery, or conspiracy attributable to the Petitioner.



Thus, even if taken at face value, the complainant’s own narrative and Charge Sheet discloses long-standing commercial trading, with purchase and sale of securities, issuance of contract notes,

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settlement of difference amounts, and substantial banking-channel payments by both sides between the bank and company. No allegation is made that the Petitioner personally induced the Bank, personally held custody of any funds or securities, personally forged any document, or personally removed or concealed any property. The quintessence is thus, at highest, commercial non-performance or breach of contractual obligations in institutional G-Sec trading which is purely civil in nature and criminal proceedings are complete abuse of process to seek specific performance or recovery of money.

Notwithstanding this, the Ld. Trial Court framed charges without granting the mandatory pre-charge hearing under Section 239 Cr.P.C, and passed a non-speaking, unreasoned order which does not identify any incriminating material or analyse how the ingredients of Sections 420, 467, 468, 471 or 120-B IPC are made out against the Petitioner. This is contrary to the settled position that an order framing charge must reflect judicial application of mind, and violates the safeguards of Articles 14 and 21 of the Constitution, as pleaded in the present grounds.

The grant of hearing under Section 239 Cr. P C, as held by Hon'ble Bombay High Court in *Bharat Uttam Rajurkar & Ors. v. State of Maharashtra – Criminal Writ Petition No. 1232 of 2017*, is mandatory and its non-compliance is fatal. Moreover, the position of law has been well established in catena of judgements of Hon'ble Bombay High Court as mentioned below:



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- (i) *Ambadas Kashirao Kharad & Ors. v. State of Maharashtra Criminal Revision Application No. 338 of 2006 decided on 18.01.2007.*
- (ii) *Wasumati Ashok Thakre & Anr. v. State of Maharashtra – Criminal Revision No. 135 of 2010 decided 12.08.2010*
- (iii) *Mohd. Sheikh Mujaffar S/o Shiek Rashid v. State of Maharashtra & Anr. Criminal Revision Application No. 74/ 2024 decided on 02.07.2024*
- (iv) *Khurshid Jaat Imran Jaat & Ors. v. State of Maharashtra – Criminal Revision Application No. 25 of 2025 decided on 24.02.2025*

As stated above, the impugned order also does not record reasons, does not analyse the ingredients of the offences alleged, and does not reflect application of judicial mind. It is a settled law which has been reiterated by the Hon'ble Bombay High Court in *Mahendra Nanjibhai Mehta v. State of Maharashtra, 2007 SCC OnLine Bom 1084*, that an order under Section 239 CrPC must be a speaking order, recording reasons and demonstrating judicial application of mind. A mechanical dismissal of discharge without analysing the objections or the ingredients of the alleged offences is unsustainable in law.

On the legal plane, the Supreme Court has consistently held that cheating under Section 420 IPC requires fraudulent or dishonest intention at the inception of the transaction, and that mere breach of contract or subsequent non-performance cannot be criminalised



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(*Hridaya Ranjan Prasad Verma v. State of Bihar*, (2000) 4 SCC 168; *Inder Mohan Goswami v. State of Uttaranchal*, (2007) 12 SCC 1; *Vesa Holdings (P) Ltd. v. State of Kerala*, (2015) 8 SCC 293). Likewise, in *G. Sagar Suri v. State of U.P.*, (2000) 2 SCC 636, *R.K. Vijayasathy v. Sudha Seetharam*, (2019) 16 SCC 739 and *Anand Kumar Mohatta v. State (NCT of Delhi)*, (2019) 11 SCC 706, it has been reiterated that purely civil/commercial disputes cannot be given a criminal colour to exert pressure.

Most recently, in *Urmila Devi v. Balram*, 2025 SCC OnLine SC 1574, the Hon'ble Supreme Court quashed criminal proceedings where a civil land/will dispute had been disguised as a criminal case, emphasising that criminal process cannot be used as a roundabout tool to abuse the process of law and that continuation of such proceedings, when the allegations do not satisfy the ingredients of Sections 419, 420, 467, 468 and 471 IPC, is impermissible.

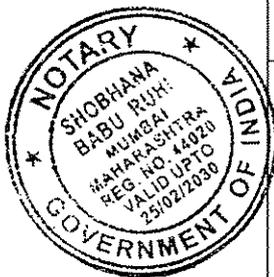
Thus, the material on record does not disclose the essential ingredients of Sections 420, 467, 468, 471 or 120-B IPC against the Petitioner, the mandatory safeguards of Section 239 CrPC have been breached, and the impugned order framing charges suffers from total non-application of mind. The continuation of criminal proceedings would amount to a misuse of the criminal justice system. The impugned order framing charges is therefore illegal, perverse, and liable to be set aside.

Hence the present Writ Petition.



LIST OF DATES

Sr. No.	Dates	Events
1. 1.	2001	The Surat Nagarik Sahakari Bank carried out Government Securities transactions through Home Trade Ltd., during which payments were made and physical possession of securities was duly delivered in all such transactions, as recorded in the complaint.
2.	06.12.2001	The Bank states that the Government Securities worth ₹12.50 crore were sold under two scrips (G.O.I. 10.47%–2015 and G.O.I. 10.70%–2020) to the Company.
3.	07.12.2001	A settlement was reached as per the complaint, whereby the Bank was to receive Government Securities worth ₹15 crore (G.O.I. 2010 – 7.50% and G.O.I. 2009 – 7.00%) within 4–6 weeks.
4.	06.12.2001, 12.12.2001, 19.02.2002, 27.02.2002,	The documents with the chargesheet records that a several meetings of the Bank's office bearers were held and "after extensive discussion and deliberation regarding the purchase and



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	and 26.03.2002	sale of Government Securities”, the transactions were finalised after comparing rates from four brokers, and the Fund Committee approved the transactions which were carried out.
5.	21.02.2002	That due to some unforeseen circumstances, delivery of the ₹15 crore securities was not made within the stipulated time and thereafter, the Bank proceeded with purchasing Government Security of G.O.I. 2017 – 8.07% worth ₹15 crore, for which the Bank paid ₹16,09,60,500/- inclusive of premium and interest, with delivery to follow.
6.	14.06.2002 & 21.06.2002	When the delivery was stated to be pending, the Company issued two cheques, being Cheque No. 984290 dated 14.06.2002 for ₹7,85,47,045.33 and Cheque No. 984291 dated 21.06.2002 for ₹8,98,93,600.00, as recorded in the complaint.
7.	06.08.2002	However, instead of awaiting the supply of Government securities in a short period of a month, the Complainant started filing complaints and finally on 18.08.2002, FIR was



		lodged as FIR No. I-274/2002 was lodged at Varachha Police Station, Surat, under Sections 406, 420, 409, 465, 467, 468, 471 and 114 IPC, based on complaint of Mr. Naineshbhai Arvindbhai Chintaniya (Authorized Officer, Surat Nagarik Sahakari Bank Ltd.).
8.	04.01.2003	That upon investigation, Chargesheet No. 4/2003 dated 04.01.2003 was filed alleging offences under Sections 406, 420, 409, 465, 467, 468, 471 and 114 IPC.
9.	21.03.2025	That the Ld. Trial Court passed the impugned order framing charges under Sections 420, 467, 468, 471, 120-B read with Section 34 IPC against four accused persons, including the Petitioner herein. The charges were framed mechanically, without first considering or deciding any objections raised, and without conducting the mandatory hearing contemplated under Section 239 CrPC.
10.	2025	Hence the present Criminal Writ Petition is filed assailing the impugned order dated 21.03.2025.



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POINTS TO BE URGED:-

The Petitioner submits that the present dispute arises entirely from commercial G-Sec transactions, and no criminal intention at inception is alleged or made out.

The Petitioner submits that the Mandatory pre-charge hearing under Section 239 CrPC was denied. Further, the Impugned Order is non-speaking, mechanical and contrary to law.

The petitioner submits that no ingredients of 420, 421, 422, 468 and 120-B r/w 34 IPC are made out. No allegation of forgery, dishonest removal of property, or conspiracy is attributable to the Petitioner. The proceedings are nothing but abuse of Criminal Law for a Civil Dispute.

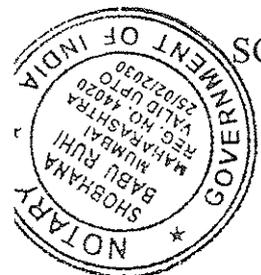
ACTS TO BE REFERRED: i) BNSS ii) IPC

POINTS FOR ARGUMENT: Mentioned in Memo.

AUTHORITIES TO BE CITED:

Supreme Court Judgments

1. Hridaya Ranjan Prasad Verma v. State of Bihar, (2000) 4 SCC 168
2. Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1



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3. Vesa Holdings Pvt. Ltd. v. State of Kerala, (2015) 8 SCC 293
4. Anil Mahajan v. Bhor Industries Ltd., (2005) 10 SCC 228
5. G. Sagar Suri v. State of U.P., (2000) 2 SCC 636
6. R.K. Vijayasathy v. Sudha Seetharam, (2019) 16 SCC 739
7. Anand Kumar Mohatta v. State (NCT of Delhi), (2019) 11 SCC 706
8. Urmila Devi v. Balram, 2025 SCC On Line SC 1574
9. Delhi Race Club v. State of U.P., (2024) 10 SCC 690
10. M/s Shikhar Chemicals v. State of U.P., 2025 SCC OnLine SC 1643

Bombay High Court Judgments

11. Ambadas Kashirao Kharad v. State of Maharashtra (2007)
12. Wasumati Ashok Thakre v. State of Maharashtra (2010)
13. Bharat Uttam Rajurkar v. State of Maharashtra (2018)
14. Mohd. Sheikh Mujaffar v. State of Maharashtra (2024)
15. Khurshid Jaat Imran Jaat v. State of Maharashtra (2025)
16. Mahendra Nanjibhai Mehta v. State of Maharashtra, 2007 SCC OnLine Bom 1084

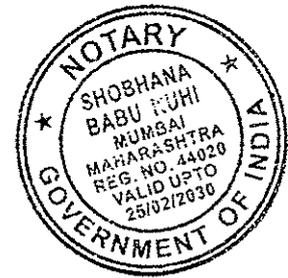


Place: Mumbai

Date: 20 /12/2025


Advocate for Petitioner

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IN THE HON'BLE HIGH COURT OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. _____ OF 2025

DISTRICT: MUMBAI

In the matter of Article 227 of the
Constitution of India;

AND

In the matter of Sec. 528 of the
BNSS;

AND

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In the matter of C.C. No. 390/PW/2023 pending before the Ld. Chief Judicial Magistrate First Class, 47th Court, Esplanade, Mumbai.

AND

In the matter of impugned order dated 21.03.2025 passed by the Ld. Chief Judicial Magistrate First Class, 37th Court, Esplanade, Mumbai, thereby mechanically passing order framing charges against the Petitioner for offences under Sections 420, 421, 422, 468 and 120-B r/w 34 IPC.

Sanjay Hariram Agarwal

Aged: 60 years, Occ.: Business

Add: 7, Hari Sava Street, Kidderpore,

Kolkata – 700023

...Petitioner

Versus

1) State of Maharashtra

2) State of Gujrat

(through Varacha P.S., Gujrat)

...Respondents



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TO,

**THE HON'BLE CHIEF JUSTICE AND OTHER HON'BLE
PUISNE JUDGES OF THE HON'BLE HIGH COURT OF
JUDICATURE AT BOMBAY.**

**HUMBLE PETITION OF THE
PETITIONER ABOVENAMED**

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner is constrained to approach this Hon'ble Court under Section 397 Cr.P.C. to prevent grave abuse of the criminal process arising from the impugned order dated 21.03.2025 passed by the Ld. Trial Court, whereby charges under Sections 420, 421, 422, 468 and 120-B r/w 34 IPC have been mechanically framed against him in connection with certain Government Securities (G-Sec) transactions between Surat Nagarik Sahakari Bank Ltd. (hereinafter referred to as "the Bank") and Home Trade Ltd. (hereinafter referred to as "the Company"). A copy of the impugned order alongwith Roznama of 21.03.2025 is annexed herewith as **EXHIBIT 'A'**.
2. The aforesaid C.C. No. 390/PW/2023 pending before the Ld. Addl. Chief JMFC, 47th Court, Esplanade, Mumbai arises out of FIR No. I-274/02 registered with Varacha P.S., Gujrat which was lodged alleging offences under Sections 406, 409, 420, 465, 467, 468, 471 and 114 of IPC against the 20 Accused Persons. It is submitted that multiple cases/ FIRs were lodged against the Petitioner in different States,



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which were having common nature of allegations. Thus, the Petitioner had preferred a transfer petition before the Hon'ble Supreme Court and by order dated 09/09/2022, the transfer petition was allowed. The transfer petition was disposed of with the direction that cases be transferred from the courts, where those are pending, to the court of Principal Judge, Bombay City Civil and Sessions Court, Fort, Mumbai. It was further directed that the Principal Judge would be at liberty to assign the cases to any of the Court situated in its jurisdiction to try all those cases. It is submitted that presently all these cases are pending before the Ld. Addl. Chief JMFC, 47th Court, Esplanade, Mumbai. A copy of the order dated 09/09/2022 passed by the Hon'ble Supreme Court is annexed herewith as EXHIBIT 'B'.

Brief facts

3. That the facts which only relevant for the present issue are mentioned in this Petition, though there are several orders in between which has no relevance to the issue raised in the present case for brevity and clarity. That the FIR No. I-274/02 dated 06.08.2002 was filed by the Naineshbhai Arvindbhai Chaitanya Surat Nagarik Sahkari Bank Ltd., alleging offences under Sections 406, 420, 409, 465, 467, 468, 471 and 114 IPC. Copy of the FIR is annexed herewith as EXHIBIT 'C'.
4. That the Bank states in its complaint that it was required to invest in Government Securities pursuant to the Statutory Liquidity Ratio (SLR) under RBI regulations, and that Government Securities transactions were carried out, and



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that the Bank had been purchasing and selling Government Securities from the Company. It is also admitted and alleged by the Complainant in its complaint that the Bank had previously purchased government securities from them, and that they *“delivered physical securities and facilitated their transfer in the bank’s name”*. Thus, in all prior years the broker had handed over the physical possession of the said securities to them, and thus, both parties completed their responsibilities.

5. That the complaint expressly records purchase and sale of securities along with contract notes and consideration, including the following sale transactions:

Sale of Existing Securities (06/12/2001)

Scrip Name	Face Value (₹)
G.O.I. 10.47% - 2015	7,50,00,000
G.O.I. 10.70% - 2020	5,00,00,000
Total	12,50,00,000

6. That the complaint also records purchase of securities by the Bank, during December 2001, and contract notes issued including the following transactions:

Scrip Name	Face Value (₹)
G.O.I. 2010 – 7.50%	10,00,00,000
G.O.I. 2009 – 7.00%	5,00,00,000
Total	15,00,00,000



7. That however, inadvertently delivery of ₹15 crore securities was not made within the stipulated time. On 21.02.2002,

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the company proposed selling the said securities and purchasing a new security to yield higher interest returns. On invitation of offers from different entities and brokers, HTL was selected for the said purpose and thereafter, the Bank proceeded with purchasing Government Security worth ₹15 crore, for which the Bank paid ₹16,09,60,500/- inclusive of premium and interest, with delivery to follow.

8. That due to some delay in delivering the government securities on 23.01.2002 the company had duly informed to the bank that the securities were being transferred from different RBI offices in various states and further it was allegedly promised that the partial delivery by 30.01.2002 and 07.02.2002 would be done. Accordingly, the company sent a fax enclosing receipts provided below-

- Rs. 5 crore of 7.50% securities and Rs. 3 Crore of 7.00% Securities from Riddhi Cooperative Bank Ltd., RBI Bangalore, Receipt No. 312, dated 08.12.2001.
- Rs. 5 crore of 7.50% 2010 securities and Rs. 2 Crore of 7.00% 2009 Securities from Borat District Co. Op. Bank Ltd., Kolkata, RBI T.D.O Receipt No. 14447, dated 08.12.2001.

After having received the receipts provided by the company, the Bank duly forwarded these receipts to the Reserve Bank of India for verification.

9. That the documents with the Chargesheet itself records that a meeting of office bearers of the Bank was held on 06.12.2001, 12.12.2001, 19.02.2002, 27.02.2002, and 26.03.2002. It is pertinent to mention that the said letters



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allegedly and admittedly states that *“after extensive discussion and deliberation regarding the purchase and sale of government securities, the following transactions were finalized,”* and that four brokers, namely (1) Starate GIC, (2) Trust Security Pvt. Ltd., (3) Moneyline Sculptor and (4) Home Trade Ltd., participated. It further records that *“the rates offered by Home Trade Ltd. were finalized, and the Fund Committee executed the following transactions,”* followed by the sale and purchase tables. The said letters thus record that the Bank actively participated in extensive discussions and deliberations and the accused persons had played no-role in either inducing or enticing the complainant bank to carry out any transaction of either sale or purchase with them. True copies of letters dated 06.12.2001, 12.12.2001, 19.02.2002, 27.02.2002, and 26.03.2002.

10. That the complaint alleges that despite the Bank having paid ₹16,09,60,500/- and despite reminders, telephonic conversations and written communications, the said securities were not delivered within the stipulated time.
11. That the complaint further records that when the delivery of the securities was stated as pending, the Company issued two post-dated cheques in favour of the Bank, being Cheque No. 984290 dated 14.06.2002 for an amount of ₹7,85,47,045.33 and Cheque No. 984291 dated 21.06.2002 for an amount of ₹8,98,93,600.00 which allegedly later got returned with the endorsement *“Account Blocked”*. Meanwhile, on 13.06.2002 upon verification, through letter the Reserve Bank of India informed the Bank that the said



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receipts were forged. Surprisingly, the said letter gives no reasons how receipts are forged and that the same are not government securities.

12. That throughout the complaint, the Bank narrates a continuous series of Government Securities transactions, including prior purchase and sale transactions, physical delivery of earlier securities, entries of contract notes, meetings, and payments made by the Bank, and the issuance of cheques by the Company. The complaint itself shows that physical delivery of earlier securities had occurred and that the present issue arises only from the last set of transactions.

13. That despite the narration being of Government Securities transactions under contract terms and involving the Bank's own deliberations and approvals, FIR No. I-274/2002 u/s 406, 409, 420, 465, 467, 468, 471 and 114 of IPC came to be lodged only on 06/08/2002 at Varachha Police Station against 20 accused persons.

14. That upon investigation, Chargesheet No. 4/2003 dated 04.01.2003 was filed alleging offences under Sections 406, 409, 420, 465, 467, 468, 471 and 114 of IPC though offence under none of the aforesaid sections stands satisfied. The Petitioner craves leave to refer and rely upon the chargesheet as when required.

15. That the Ld. Judicial Magistrate without affording any opportunity of hearing on charge vide Impugned Order dated 21.03.2025, framed charges under Sections 420, 467, 468, 471 120-B r/w 34 IPC against the Petitioner, without first deciding any objections or conducting a hearing under



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Section 239 CrPC as held by Hon'ble Bombay High Court in *Bharat Uttam Rajurkar & Ors. v. State of Maharashtra – Criminal Writ Petition No. 1232 of 2017*. The impugned order also does not record reasons, does not analyse the ingredients of the offences alleged, and does not reflect application of judicial mind. It is a settled law which has been reiterated by the Hon'ble Bombay High Court in *Mahendra Nanjibhai Mehta v. State of Maharashtra, 2007 SCC OnLine Bom 1084*, that categorically held that an order under Section 239 CrPC must be a speaking order, recording reasons and demonstrating judicial application of mind. A mechanical dismissal of discharge without analysing the objections or the ingredients of the alleged offences is unsustainable in law.

16. That even assuming every allegation in the complaint, the events recorded pertain exclusively to Government Securities transactions where payments were made by the Bank, contract terms were recorded, previous deliveries were completed, and cheques were issued, with only certain securities stated as not delivered. Thus, the complaint discloses no material satisfying the statutory ingredients of the offences alleged.

17. That, being aggrieved by the impugned order and the procedural as well as substantive errors therein, the Petitioner prefers the present Writ Petition on the following grounds:



GROUNDS

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A. That the Petitioner is falsely implicated in the instant case and denies committing any of the offenses as alleged against him. The allegations made in the FIR are devoid of any merits and are baseless and is a clear attempt to give a criminal colour to a purely commercial dispute which is civil in nature.

B. That the failure to conduct a pre-charge hearing under Section 239 CrPC vitiates the charges, as it violated the Petitioner's right to a fair trial and due process guaranteed under Articles 14 and 21 of the Constitution.

B.1. That the record (Roznama) dated 21.03.2025 clearly demonstrates that the accused was not afforded a meaningful opportunity to be heard prior to the framing of charges. Section 239 CrPC mandates that an accused must be given the chance to address the Court on whether any offence is made out. This mandatory safeguard was completely denied.

B.2. That the Ld. Trial Court proceeded to frame charges without granting the opportunity of hearing to the accused under Section 239 CrPC. The Petitioner was present and had sought to address the Court on the question of charge, yet no such hearing was afforded. The statutory requirement of providing the accused a meaningful and effective opportunity to show that no case is made out was completely bypassed.

B.3. That the position of law has been well established in catena of judgements of Hon'ble Bombay High Court as



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mentioned below that an order framing charge is vitiated if no opportunity has been granted prior to framing of charge to an accused to show from the materials on record that no offence has been committed by him and that no charge can be framed against the accused:-

(i) *Ambadas Kashirao Kharad & Ors. v. State of Maharashtra Criminal Revision Application No. 338 of 2006 decided on 18.01.2007.*

(ii) *Wasumati Ashok Thakre & Anr. v. State of Maharashtra – Criminal Revision No. 135 of 2010 decided 12.08.2010*

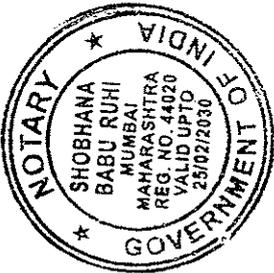
(iii) *Bharat Uttam Rajurkar & Ors. v. State of Maharashtra – Criminal Writ Petition No. 1232 of 2017 decided on 12.01.2018*

(iv) *Mohd. Sheikh Mujaffar S/o Shiek Rashid v. State of Maharashtra & Anr. Criminal Revision Application No. 74/ 2024 decided on 02.07.2024*

(v) *Khurshid Jaat Imran Jaat & Ors. v. State of Maharashtra – Criminal Revision Application No. 25 of 2025 decided on 24.02.2025*

B.4 That it is apt to quote on judgement out of many i.e. *Bharat Uttam Rajurkar & Ors. v. State of Maharashtra – Criminal Writ Petition No. 1232 of 2017* where the Hon'ble Bombay High Court (Nagpur Bench) held that the absence of a hearing was not a mere technicality but a substantive failure. His Lordships Justice S.B. Shukre, while quashing the charges, held:

“There cannot be any 'prima facie presumption' about the predecessor of the learned Magistrate



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having heard the accused persons before framing of the charge... Framing of charge is a serious business. When Sections 239 and 240 of Cr.P.C. mandate that charge must be framed after giving an opportunity of hearing to the accused, the mandate must be followed realistically and not presumptively."

The court in the above case further observed:

"The impugned orders clearly show that no such opportunity of being heard was ever granted to the petitioners before framing of the charge and, therefore, for this reason alone, the charge, as framed, against the petitioners deserves to be quashed and set aside." Thus, the failure to comply with Sections 239 and 240 Cr.P.C. has in itself resulted in a miscarriage of justice, warranting the present application.

B.5. That the material on record does not disclose a prima facie case against the accused for Sections 420, 467, 468, 471, 120-B IPC and the petitioner never had an opportunity to explain it to the magistrate that in view of law declared by Hon'ble Supreme Court mere alleged failure of delivery of certain Securities cannot justify framing of charges as the essential ingredients of the alleged offences is not made out.

B.6. That furthermore, the Investigating Officer also failed to adequately examine the documentary and testimonial evidence pertaining to the accused's conduct before



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recommending framing of charges, thereby violating the principle that charges must be framed only after evaluating whether a reasonable case exists.

B.7. That in addition to denying the statutory hearing, the impugned charge-framing order is vitiated for being a completely non-speaking and unreasoned order. It does not identify any incriminating material, or shows a single reason explaining how the offences under Sections 420, 467, 468, 471, 120-B IPC are made out. It is settled law in *Mahendra Nanjibhai Mehta v. State of Maharashtra (Supra)* that an order framing charges must be a speaking order, reflecting judicial application of mind. The impugned order contains no reasoning whatsoever and merely reproduces the prosecution's allegations, rendering it unsustainable in law and violative of Articles 14 and 21.



C. That the dispute is civil/commercial in nature and does not disclose any criminal offence.

C.1. That the allegations in the Complaint, FIR and Chargesheet arise purely from commercial and contractual transactions relating to Government Securities with the Company. Even if taken at face value, they amount at best to breach of contract for non-delivery of securities by the Company and do not constitute any criminal offence.

C.2. That it is a settled law that mere breach of contract cannot give rise to criminal liability unless fraudulent or dishonest intention is shown at the inception of the transaction. The Hon'ble Supreme Court in *Hridaya*

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Ranjan Prasad Verma v. State of Bihar, (2000) 4 SCC 168

has observed:

“15. In determining the question it has to be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time of inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed.”

(Emphasis supplied)

C.3. That pertinently the Companies prior and subsequent conduct, including honouring earlier Government Securities transactions with the Complainant Bank, clearly indicates bona fide commercial dealings and negates any allegation of fraudulent intent at inception.

C.4. That the Hon'ble Apex Court has repeatedly cautioned that disputes which are essentially civil must not be dressed up as criminal offences (*Paramjeet Batra v. State of Uttarakhand, Usha Chakraborty v. State of West Bengal, Naresh Kumar v. State of Karnataka*).

C.5. That furthermore, it is pertinent to mention that the Hon'ble Supreme Court has further clarified in *Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293*, that every breach of contract does not amount to cheating, and criminal prosecution cannot be invoked unless



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fraudulent intention at the inception of the transaction is clearly established. It was observed that:

...8. From the decisions cited by the appellant, the settled proposition of law is that every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception. If the intention to cheat has developed later on, the same cannot amount to cheating. In other words for the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in the absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Indian Penal Code can be said to have been made out.

(Emphasis supplied)

C.6. In *Anil Mahajan v. Bhor Industries Ltd., (2005) 10 SCC 228*, the Hon'ble Supreme Court held that criminal proceedings for cheating are liable to be quashed where the allegations disclose only a civil wrong, observing that "the substance of the complaint is to be seen; if it discloses a civil dispute, the criminal process should not be permitted to continue." The present case falls squarely within that principle.



C.7 The Hon'ble Supreme Court, in a recent and strong disapproval of the growing tendency to criminalise civil and commercial disputes, observed in *M/s Shikhar Chemicals v. State of U.P., 2025 SCC OnLine SC 1643*, as under:

"The Magistrate unfortunately remained unmindful of the fact that even as per the complainant's own say the case is one of sale of goods and recovery of some balance amount... It was expected of the Additional

CJM to know that in a case of sale transaction where is the question of any entrustment of goods so as to bring the case within the ambit of criminal breach of trust punishable under Section 406 of the IPC. ... We are not taken by surprise with the Magistrate exhibiting complete ignorance of law... However, we expected at least the High Court to understand the fine distinction between the two offences... It was expected of the High Court to know the well-settled position of law that in cases of civil dispute a complainant cannot be permitted to resort to criminal proceedings as the same would amount to abuse of process of law."

C.8 The Courts have emphatically reiterated the settled principle that where the dispute arises from a commercial contract, such as sale, supply, or investment transactions, the remedy lies in civil law for recovery or damages, not in criminal prosecution. The criminal law cannot be used to enforce contractual obligations or to pressurise parties in commercial dealings.

C.9 That in the present case, the continuation of criminal proceedings is nothing but an attempt to give a cloak of criminality to a dispute that is purely civil and contractual, which is impermissible and constitutes abuse of process.

D. That no offence alleged under Sections 420 is made out as the continuous prior bona fide dealings between the Company and the Complainant Bank clearly negates any element of fraudulent or dishonest intention at the inception of the transaction.

D.1. Section 415 IPC defines "cheating" as follows:

"Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally



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induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'.

D.2 As delineated by the Hon'ble Supreme Court in ***Delhi Race Club v. State of U.P. (2024) 10 SCC 690*** the following are the ingredients of Section 420 IPC:

"(1) Deception of any person, either by making a false or misleading representation or by other action or by omission;

(2) Fraudulently or dishonestly inducing any person to deliver any property, or

(3) The consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit"

D.3 That Section 420 IPC requires (i) deception of a person, (ii) fraudulent or dishonest inducement at the inception of the transaction, and (iii) delivery of property or alteration of a valuable security pursuant to such inducement. Dishonest intention at the very inception is the foundational element of the offence. Subsequent failure to fulfil a promise, or inability to perform a contract, does not by itself constitute cheating.

D.4 That the Hon'ble Supreme Court also in ***Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1***, as reiterated in ***Arshad Neyaz Khan v. State of Jharkhand (2025) SCC Online SC 2058***, has categorically held that the intention at the inception is the gist of the offence of cheating, and that



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17. "42....From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning."

Applying this settled principle, the absence of any dishonest intention at the inception of the transaction completely negates the applicability of Section 420 IPC.

D.5. That neither the Complaint, FIR nor the chargesheet in the instant case attributes any inducement, communication or act personally committed by the Petitioner which caused the Bank to enter into the Government Securities transactions. The complaint itself records that the Bank's securities transactions were undertaken through meetings of office bearers, the Fund Committee, and after internal review of rates from multiple brokers, thereby demonstrating that the Bank acted independently, institutionally and on its own assessment with the Company, negating any allegation of inducement.

D.6. That the complaint expressly records a continuous history of prior dealings between the Bank and the Company, including that Government Securities were purchased earlier and that the Company had "*delivered physical securities and facilitated their transfer in the bank's name*". These admitted facts of regular purchase-sale, transfer and delivery show a routine commercial trading relationship, inconsistent with any allegation of fraudulent inception



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D.7. That the documents with the chargesheet further records that on 06.12.2001, 12.12.2001, 19.02.2002, 27.02.2002, and 26.03.2002, a meeting of office bearers was held and *“after extensive discussion and deliberation regarding the purchase and sale of government securities, the following transactions were finalized,”* with four brokers participating. It records that the Fund Committee executed the transactions after comparing rates. This official prosecution document itself confirms that the Bank entered into the transactions after its own evaluation, and contains no reference to inducement or deception by the Petitioner.

D.8 That the grievance stated in the complaint pertains solely to non-delivery of physical securities in the last set of trades, after years of deliveries, and after all trades were executed through institutional processes, thereby reinforcing that the dispute is commercial in nature.

D.9 That the complaint also records detailed purchase and sale transactions, including that the Bank sold securities worth ₹12.50 crore and was to receive ₹15 crore of other securities, followed later by a purchase of securities worth ₹15 crore for which the Bank paid ₹16,09,60,500/-. Thus, demonstrating that the Bank treated the alleged shortfall as a matter of commercial settlement, not as a criminal act. It raised delivery reminders, communicated telephonically, and accepted substitutions of securities. Infact that bank has alleged the non-performance of the contract making it purely civil nature of dispute. Such conduct shows that the



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Bank itself perceived the issue as a settlement discrepancy, not criminal fraud.

D.10 That, therefore, even if the allegations in the complaint are taken at face value, they amount only to commercial non-performance or breach of contract. That the totality of these admitted facts consisting of independent decision-making by the Bank, years of successful deliveries, and absence of any personal inducement of the Petitioner clearly establishes that the essential ingredients of Section 420 IPC are conspicuously absent. Such disputes cannot be criminalised, and the continuation of criminal proceedings on this purely civil-commercial foundation constitutes a gross abuse of process. Accordingly, the charge under Section 420 IPC is wholly unsustainable and liable to be quashed.

E. That no offence alleged under Sections 467, 468 and 471 is made out.

E.1. That Section 467 of the Indian Penal Code reads as under:

"Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with [imprisonment for life], or with imprisonment of either



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description for a term which may extend to ten years, and shall also be liable to fine."

E.2. That the essential ingredients of Section 467 IPC are:

- a) existence of a document of the nature contemplated under Section 467 IPC;
- b) intent to deceive;
- c) False representation of valuable legal rights;
- d) making of a false document within the meaning of Section 464 IPC; and
- e) particulars showing how and in what manner the document is forged.

E.3. That in the present case, the allegation of forgery is founded solely on a letter dated 13.06.2002 stated to have been issued by the Reserve Bank of India. A plain reading of the said letter shows that it merely records that "*it has been reported*" that the Bank submitted certain counter receipts for verification, and that the RBI offices at Kolkata and Bangalore, upon scrutiny, "*found the same to be forged.*"



E.4. That significantly, the said RBI letter does not disclose:

- a) how the receipts are forged;
- b) in what manner they are forged;
- c) what specific defect renders them forged; or
- d) who prepared, authored, signed or forged the said receipts.

The said letter therefore, contains no factual reasoning, examination details or particulars necessary to satisfy the

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statutory requirement of "making of a false document" under Section 464 IPC.

E.5. That further, the RBI letter does not attribute the preparation or forgery of the receipts to the Petitioner. It merely states that the securities were "*reported to be purchased through M/s Home Trade Ltd.*" and proceeds to advise the Bank to file a criminal complaint. Such advisory communication does not, in law, establish authorship, participation or criminal intent on the part of the Petitioner so as to attract Section 467 IPC.

E.6. That neither the complaint nor the chargesheet supplements the RBI letter by placing any additional material on record to explain the alleged forgery or to connect the Petitioner with the making of the alleged forged receipts. In the absence of such foundational material, the essential ingredients of Section 467 IPC remain wholly unfulfilled.

E.7. That since Section 467 IPC itself is not attracted, the consequential offence under Section 468 IPC (forgery for the purpose of cheating), which is dependent upon the existence of a legally sustainable forgery, does not arise.

E.8. That similarly, Section 471 IPC presupposes the use of a forged document as genuine by the accused. The RBI letter does not allege, and the complaint does not state, that the Petitioner used or presented the alleged receipts as genuine. In the absence of such an allegation, Section 471 IPC is also not attracted.



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E.9. That the Hon'ble Supreme Court in *G. Sagar Suri v. State of U.P., (2000) 2 SCC 636* cautioned against stretching civil disputes into criminal prosecutions by invoking penal provisions without factual foundation. The present case is a textbook example of such mechanical invocation of sections.

E.10. That therefore, the RBI letter relied upon by the complainant does not satisfy the statutory requirements of Section 467 IPC, and consequently, the offences under Sections 467, 468 and 471 IPC are not made out. The initiation and continuation of criminal proceedings under these provisions are thus bad in law and unsustainable.

F. That no offence alleged under Sections 120-B is made out.

F.1. That Section 120-B IPC requires proof of an agreement between two or more persons to commit an illegal act or a legal act by illegal means. The essence of conspiracy is the meeting of minds. Mere association or participation in commercial transactions does not constitute conspiracy.

F.2. That the complaint itself records that the Bank had previously purchased Government Securities from the Company, that the securities were physically delivered, transferred in the Bank's name. The complaint also narrates only commercial securities purchase-sale transactions undertaken through regular interactions with the Company's representatives. These admitted facts of prior deliveries and established commercial conduct negate any



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allegation of a concerted criminal design or meeting of minds required to constitute conspiracy.

F.3. That the chargesheet itself records that the Bank's office bearers held a meeting and, after extensive discussion and deliberation regarding the purchase and sale of Government Securities, finalised the transactions after comparing rates from brokers, and that the Fund Committee executed the decisions independently. This prosecution material contains no reference to any agreement or unlawful coordination attributable to the Petitioner.

F.4 That the invocation of Section 120-B IPC appears to be purely mechanical, without reference to the statutory requirements or supporting material. A conspiracy cannot be inferred from commercial non-performance, which the Hon'ble Supreme Court has consistently held to be a civil matter unless attended by explicit fraudulent intent. Accordingly, the charge under Section 120-B IPC is wholly misconceived and deserves to be quashed.

G. There is no concept of vicarious liability under the Indian Penal Code the proceedings against the Petitioner are unsustainable.

G.1 It is respectfully submitted that the Indian Penal Code does not create or recognise the concept of vicarious criminal liability except where the statute specifically so provides. In the absence of such statutory mandate, no director or officer can be held criminally liable for acts allegedly committed by the company unless there is



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evidence of his individual role coupled with requisite mens rea.

G.2 In *Sunil Bharti Mittal v. Central Bureau of Investigation, (2015) 4 SCC 609*, the Hon'ble Supreme Court categorically held that a director or officer of a company cannot automatically be held liable for offences committed by the company unless there is material showing his active role in the commission of the offence and the presence of criminal intent. The Court observed that "the principle of alter ego" cannot be invoked to implicate an individual unless there is material to lift the corporate veil and show his personal involvement in the alleged acts.

G.3 Likewise, in *GHCL Employees Stock Option Trust v. India Infoline Ltd., (2013) 4 SCC 505*, it was held that a director cannot be prosecuted merely by virtue of his designation or position. There must be specific allegations of acts done by him and intent attributable to him individually. A bald assertion that he was a director at the relevant time is insufficient to attract criminal liability.

G.4 Further, in *Delhi Race Club Ltd. v. State of Delhi [(2012) 8 SCC 680]*, the Hon'ble Supreme Court observed as follows:

"When the company itself is alleged to have committed the offence, there is no question of attributing vicarious liability to its office-bearers for offences such as cheating or criminal breach of trust. The office-bearers can be prosecuted only if direct



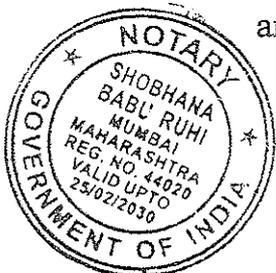
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and specific allegations are levelled against them individually. The complainant must demonstrate that he was deceived or cheated by the personal acts of the office-bearers.”

G.5 In the present case, even assuming the prosecution's allegations to be true, the entire transaction forming the basis of the charge-sheet pertains to Home Trade Ltd., a registered company, which acted as a contracting party in its own corporate capacity. The allegations of issuance of contract notes, receipt of funds, or non-delivery of securities, all relate to acts of the company in the course of its business.

G.6 The prosecution has chosen to charge only its directors, including the present Petitioner, without attributing any specific role or act done by them individually. The charge-sheet contains no material showing any meeting, communication, or act of inducement by the Petitioner. The allegations, even if taken at their face value, are not against the Petitioner in his personal capacity.

G.7 In such circumstances, the prosecution of the Petitioner alone, is contrary to settled principles of criminal jurisprudence and is liable to be quashed. The continuation of proceedings against the Petitioner amounts to attributing vicarious criminal liability, which is impermissible in law and constitutes an abuse of the process of Court.



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H. That the Ld. Magistrate failed to apply judicial mind, and both the investigation and the charge-framing have been conducted in a mechanical manner.

H.1 That the charges framed under Sections 420, 467, 468, 471, 120-B r/w 34 IPC have been imposed in a mechanical manner without any analysis of the material placed on record. The impugned order does not record what material was relied upon, how the statutory ingredients were satisfied, or why a prima facie case was considered to be made out.

H.2 That the impugned order is *non-speaking*, as it does not identify any specific act attributed to the Petitioner, does not discuss the role of the accused in the transactions, and does not demonstrate that the Ld. Magistrate examined whether the ingredients of each alleged offence were disclosed. The absence of reasons reflects complete non-application of judicial mind.

H.3 That the investigation itself proceeded mechanically, the investigating agency reproduced allegations from the complaint without verifying which specific document or transaction was attributable to which accused, and without distinguishing institutional acts from individual acts. No effort was made to correlate documentary material with the offences alleged.

H.4 That the investigating agency mechanically invoked multiple penal sections without identifying the factual foundation necessary for each of them, resulting in a



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chargesheet that merely repeats allegations without demonstrating means rea, specific overt acts, or satisfaction of statutory elements.

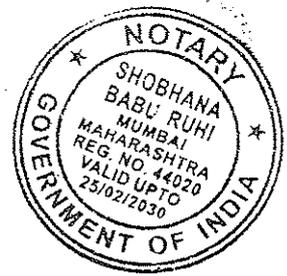
H.5 That in these circumstances, the charge-framing order passed without reasons and without reference to any material stands vitiated for want of application of mind. Such mechanical exercise of jurisdiction causes serious prejudice to the Petitioner and renders the impugned order unsustainable in law.

PRAYER

In the facts and circumstances of the present case, it is most humbly prayed that this Hon'ble Court may graciously be pleased to:

a. This Hon'ble Court by invoking the Writ Jurisdiction under Article 227 of the Constitution of India and Inherent powers under Section 528 of BNSS may issue appropriate writ, order or direction and the order dated 21.03.2025 passed by the Ld. Additional Chief Judicial Magistrate, 37th Court, Esplanade, Mumbai in C.C. No. 390/2023, whereby charges have been framed against the Petitioner for offences under Sections 420, 467, 468, 471 and 120-B IPC may kindly be quashed and set aside;

b. Pending the hearing and final disposal of the present Petition the effect, operation and implementation of the impugned order dated 21.03.2025 passed by the



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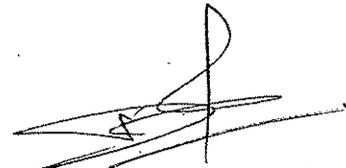
Ld. Additional Chief Judicial Magistrate, 37th Court,
Esplanade, Mumbai in C.C. No. 390/2023, be stayed;

- c. Pass any such other or further orders and/or directions as this Hon'ble Court may deem fit, proper, just and equitable in the facts and circumstances of the case.

**AND FOR THIS ACT OF KINDNESS, THE
PETITIONER AS IN DUTY BOUND SHALL EVER
PRAY.**

Mumbai,

Date: 20.12.2025



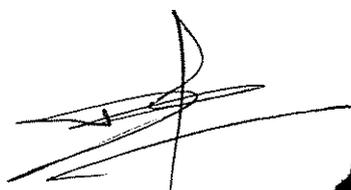
Advocate for Petitioner

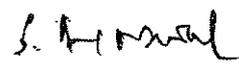


VERIFICATION

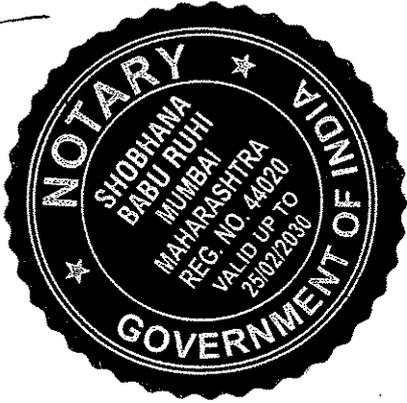
I, Sanjay Hariram Agarwal, Aged: 60 years, Indian Inhabitant, Residing at: 7, Hari Sava Street, Kidderpore, Kolkata – 700023, the Petitioner hereinabove, do hereby state on solemn affirmation, that whatever stated in foregoing paragraphs is true and correct to my own knowledge and belief and also on the legal advice I've received, which I believe to be true and correct and the contents last para is my humble prayers.

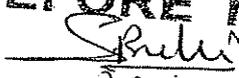
Solemnly affirmed at Mumbai)
Dated this 20th day)
December, 2025)

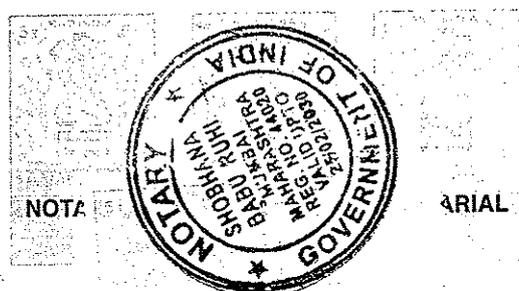

Identified by me


Petitioner

BEFORE ME



BEFORE ME

20-12-2025
SHOBHANA BABU RUHI
NOTARY
Government of India
Mumbai Dist.



NOTARIAL NOTARIAL



S. No. 249 P. No. 16
NOTARY Register...07...Date 20/12/25

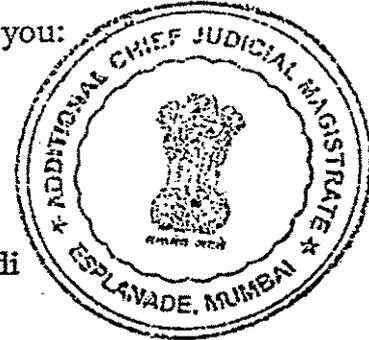
IN THE COURT OF THE ADDL. CHIEF JUDICIAL MAGISTRATE,
37TH COURT, ESPLANADE, MUMBAI.
C. C. No. 390/PW/2023

CHARGE

I, Vinod R. Patil, Addl. Chief Judicial Magistrate, 37th Court,
Esplanade, Mumbai do hereby charge you:

1. Ketan Kantilal Seth
2. Subodh Bhandari
3. Sanjaybhai Hariram Agarwal
4. Nandkishor Shankarlal Trivedi

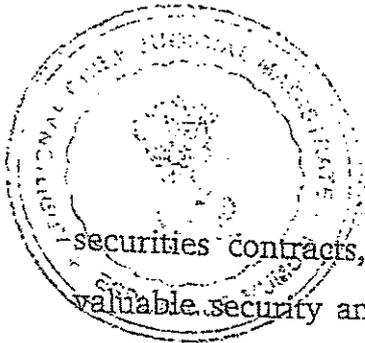
as follows :



That you, accused No.1. Ketan Kantilal Seth being Director, accused No.2. Subodh Bhandari, accused No.3 Sanjaybhai Hariram Agarwal being Chairman and Chief Executive, accused No.4. Nandkishor Shankarlal Trivedi being Executive Director of Home Trade Limited along with other absconding accused from 6.12.2001 to 06.08.2002 and 26.03.2002, at Surat Nagrik Sahakari Bank Limited, behind Gitanjali Cinema, Varachha Road, Surat, along with other absconding accused in furtherance of your common intention cheated the informant The Surat Nagrik Sahakari Bank Limited by dishonestly inducing it to deliver an amount of Rs. 16,09,60,500/- (Rupees Sixteen Crore Nine Lakh Sixty Thousand Five Hundred Only) to M/s. Home Trade Limited to purchase government securities and thereby committed an offence punishable under section 420 r/w. 34 of the Indian Penal Code and within my cognizance.

Secondly, that you during the above said period and place along with other absconding accused in furtherance of your common intention forged various documents namely SEBI certificates, government

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C. C. No. 390/PW/2023

securities contracts, and other related documents purported to be a valuable security and thereby committed an offence punishable under section 467 r/w. 34 of the Indian Penal Code and within my cognizance.

Thirdly, that you during the above said period and place along with other absconding accused in furtherance of your common intention forged various documents, namely SEBI certificates, government securities contracts, and other related documents intending that it shall be used for the purpose of cheating and thereby committed an offence punishable under section 468 r/w. 34 of the Indian Penal Code and within my cognizance.

Fourthly, that you during the above said period and place along with other absconding accused in furtherance of your common intention fraudulently used as genuine various documents namely SEBI certificates, government securities contracts, and other related documents which you knew at the time when used it to be forged documents and thereby committed an offence punishable under section 471 r/w. 34 of the Indian Penal Code and within my cognizance.

Fifthly, that you during the above said period and place along with other absconding accused in furtherance of your common intention abetted the informant in committing an act and you were present at the time the act was committed in pursuance of your abetment and thereby committed an offence punishable under section 114 r/w. 34 of the Indian Penal Code and within my cognizance.

Lastly, that you along with other absconding accused during the above said period and place were party to criminal conspiracy to commit criminal breach of trust, cheating and forgery and thereby committed an offence punishable u/sec. 120-B r/w. 420, 467, 468, 471

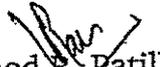
of the Indian Penal Code and within my cognizance.

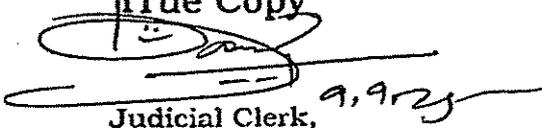
And I hereby direct that you be tried by me on the above said offence.

Dated 21st day of March, 2025.


(Vinod R. Patil),
Addl. Chief Judicial Magistrate,
37th Court, Esplanade, Mumbai

The charge is framed, read over and explained to the accused in vernacular language.


(Vinod R. Patil),
Addl. Chief Judicial Magistrate,
37th Court, Esplanade, Mumbai

True Copy

Judicial Clerk,
Addl. Chief Judicial Magistrate,
37th Court, Esplanade, Mumbai.



application on 04/09/2025
Ready on
Charges pay on 09/09/2025
delivered on 09/09/2025

T. C
R
Adv.

(34)

Daily Status

In The Court Of :Addl. Chief Judicial Magistrate , 37th Court

CNR Number. :MHMM110048812023

Case Number. :Police Cases PW/4700390/2023

**VARACCHA POLICE STATION Versus KETANBHAI KANTILAL
SHETH- (SUPPLEMENTARY CHARGESHEET)**

Date :21-03-2025

Business	:	Ld. APP present. All accused present with Advocates. Exh. 63 - Charge framed against all accused. Exh. 64 - Plea of accused no. 1 recorded. Exh. 65 - Plea of accused no. 2 recorded. Exh. 66 - Plea of accused no. 3 recorded. Exh. 67 - Plea of accused no. 4 recorded. Accused no. 1 to 4 pleaded not guilty. Exh. 68 - Application for issue summons to Informant and Investigation Officer filed by Ld. APP. Order - Issue summons as prayed. Exh. 69 - Vakalatnama on behalf of accused no. 4 filed by Advocate. Issue summons to Informant and Investigation Officer. Adjourned for evidence and production of translated copies.
Next Purpose	:	TIME BOUND CASES
Next Hearing Date	:	07-04-2025
Addl. Chief Judicial Magistrate , 37th Court		

*T. C.
R.
Aer*

Exh-B

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NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION**

TRANSFER PETITION (CRIMINAL) Nos. 333-348/2021

Ketan Kantilal Seth

.....Petitioner

VERSUS

State of Gujarat & Ors.

..... Respondent(s)

With I.A. No. 134476 of 2021

ORDER

1. With the consent of the parties, these transfer petitions have been taken up for final hearing. The present petitions have been filed by petitioner/accused for invoking the power under Section 406 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC'), seeking transfer of 16 criminal cases pending against him in four different States to one Court in

Mumbai, where 3 cases are already pending. Following are the

cases of which transfer are being sought -

Validity unknown
Digitally signed by
GEETA KANTILAL SETH
Date: 2022.09.26
17:38:52 +05'30'
Reason:

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- i. Criminal Case No. 101878/2003 arising out of FIR No. C.R. No. I-64/2002, dated 30.07.2002 registered at Police Station Udhana, Surat, Gujarat, pending before Additional Chief Judicial Magistrate, Surat;
- ii. Criminal Case No. 9166/2002 arising out of FIR No. I.C.R. No. 274/2002, dated 02.07.2002 registered at Police Station Umra, Surat, Gujarat, pending before Additional Chief Judicial Magistrate, Surat;
- iii. Criminal Case No. 174/2003 arising out of FIR No. C. R. No. I-226/2002, dated 30.08.2002 registered at Police Station Rander, Surat, Gujarat, pending before Additional Chief Judicial Magistrate, Surat;
- iv. Criminal Case No. 100521/2003 arising out of FIR No. 274/2002, dated 06.08.2002 registered at Police Station Varachha, Surat, Gujarat, pending before Additional Chief Judicial Magistrate/Judicial Magistrate First Class, Surat;
- v. Criminal Case No. 2778/2004 arising out of FIR/M. Case No. 3/2002, dated 16.07.2002 registered at Police

Station Gandevi, Navsari, Gujarat, pending before Additional Chief Judicial Magistrate, Gandevi;

vi. Criminal Case No. 6840/2002 arising out of FIR No. I-93/2002, dated 18.08.2002 registered at Police Station Navsai Town, Navsari, Gujarat, pending before Chief Judicial Magistrate, Navsari;

vii. Criminal Case No. 2121/2002 arising out of FIR No. I-119/2002, dated 10.06.2002 registered at Police Station Valsad City, Valsad, Gujarat, pending before Chief Judicial Magistrate, Valsad;

viii. Criminal Case No. 1578/2006 arising out of FIR/M. Case No. 29/2002, dated 13.06.2002 registered at Police Station Vidya Nagar, Anand, Gujarat, pending before Additional Chief Judicial Magistrate, Anand;

ix. Criminal Case No. 244/2002 arising out of FIR/M. Case No. 22/2002 (C.R. No. I-226/2002), dated 07.06.2002 registered at Police Station Morbi, Gujarat, pending before II Additional Chief Judicial Magistrate, Morbi;

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- x. Criminal Case No. 40449/2016 arising out of FIR No. 280/2002, dated 04.05.2002 registered at Police Station Connaught Place, New Delhi, pending before Additional Chief Metropolitan Magistrate, Patiala House Court, New Delhi;
- xi. Criminal Case No. 2034203/2016 arising out of FIR No. 242/2002, dated 17.06.2002 registered at Police Station Sarojini Nagar, New Delhi, pending before Chief Metropolitan Magistrate, Saket Court, New Delhi;
- xii. Criminal Case No. ___/2002 arising out of FIR No. 298/2002, dated 22.08.2002 registered at Police Station Jagatdal, 24 North Paraganas, West Bengal, pending before Barrackpore Court, Kolkata;
- xiii. Criminal Case No. 147/2002 arising out of F.I.R. No. 97/2002, dated 25.04.2002 and C.R. No. 101/2002, dated 29.04.2002, both registered at Police Station Ganeshpeth, Nagpur, Maharashtra, pending before 155-II Additional Chief Judicial Magistrate First Class, Nagpur;

- xiv. Criminal Case No. 847/2002 arising out of F.I.R. at C.R. No. 75/2002, dated 15.05.2002 registered at Police Station City Kotwali, Amravati, Maharashtra, pending before Chief Judicial Magistrate, Amravati;
- xv. Criminal Case No. 498/2002 arising out of F.I.R. at C.R. No. 102/2002, dated 08.05.2002 registered at Police Station Pimpri, Pune, Maharashtra, pending before Chief Judicial Magistrate, Pimpri, Pune;
- xvi. Criminal Case No. 357/2002 arising out of F.I.R. at C.R. No. 65/2002, dated 15.05.2002 registered at Police Station Vishrambaug, Pune, Maharashtra, pending before III Judicial Magistrate First Class, Shivaji Nagar, Pune.

In fact, the basic object to file these transfer petitions is to get all cases transferred at one place and may be directed to try together.

2. In a nutshell, the prosecution story in majority of the cases revolves around one accused company namely M/s Home Trade Limited, which is alleged to have engaged in the business of

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Stock, Securities, Brokering and Trading. The allegations against the petitioner herein and one Sanjay Hariram Agarwal are that they were the authorized signatories of the accused company and while acting in the capacity of Directors of the said accused company, they entered into several transactions dealing with government

securities and further sold the said securities without any authorization. Further, it has also been alleged that the government securities were not delivered within time and the money raised thereby has been misappropriated by the accused persons including the petitioner herein.

3. During the pendency of the instant petitions, application for intervention (bearing I.A. No. 134476 of 2021) has also been filed on behalf of one applicant namely; Omprakash Bhaurao Kamdi, seeking permission to intervene on the grounds of being a 'necessary' and 'proper' party as stated in the application.

4. Before advertng to merits of the transfer petitions, the application seeking intervention is being taken up for disposal. The intervenor claims to be an agriculturist who is dependent on

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financial aid provided by Nagpur District Central Cooperative Bank Limited (hereinafter referred as NDCCB) for his day-to-day agricultural activities. It is said Chairman of NDCCB, who lodged an FIR in 2002 against the petitioner and other accused persons alleging non-delivery of the government securities worth Rs. 125 crores which NDCCB purchased through accused company in which petitioner and other accused persons were directors. The petitioner also sought transfer of concerned trial in the instant transfer petitions.

5. It is a settled principle of law in criminal jurisprudence that intervention application filed by a third party should not ordinarily be allowed in criminal cases unless the Court is satisfied that on the grounds on which the person seeking intervention is directly or substantially related to the case and question of law which may affect him adversely; or in the opinion of Court, joining the intervenor in the case is expedient in public interest. Having perused the contents of intervention application, nothing is averred in the application, how non-joining of applicant may cause prejudice or affect the public interest. The

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applicant is neither a complainant in any of the cases of which transfer is being sought, nor he has any direct involvement or ground of his joining in public interest. The intervenor has no locus to intervene in the present petition, therefore, I am of the opinion that the grounds as mentioned by the intervenor are not proper to allow the application. It is to observe that prayer in the present petition

is confined to transfer the criminal trials pending before Trial Courts in different States for trial by one Court in one State and in such circumstances, the prayer for intervention cannot be allowed for reasons mentioned above. Consequently, I.A. No. 134476 of 2021 seeking intervention stands dismissed.

6. Reverting to the merits of the transfer petitions, learned counsel for petitioner has contended that multiple FIRs were registered against petitioner and other accused persons in different States having similar set of allegations, which has led into multiple trials being pending before various Trial Courts in different States for adjudication. Most of the accused persons in all FIRs and witnesses thereof are common. However, for the

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purpose of trial, all the accused as well witnesses have to attend hearing dates before various Courts leading to delay and huge expenses. Moreover, most of the transactions pertaining to the alleged offence have taken place in Mumbai, Maharashtra and as per the chart supplied by the petitioner, majority of the witnesses relevant for the purpose of trial are also from Mumbai. However, the petitioner has prayed the transfer of all cases for trial by one

Court primarily on the grounds of convenience, expeditious disposal and no-prejudice may be caused to the defence of the accused for fair trial and to secure ends of justice.

7. Per contra, the learned counsel for respondent has opposed the transfer petitions primarily on the ground that the transfer petitions have been filed belatedly. It has been contended that, High Court of Bombay vide order dated 24.06.2021 passed in Criminal Application No. 628/2014, directed the concerned Trial Court to complete the trial in C.C. No. 147/2002 (i.e. one of the cases of which transfer is being sought in the instant petitions) by passing final judgment and order within a maximum period of

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four months. The proceedings in the said case are already at the final stage. Hence, the prayer of the petitioner seeking transfer of cases as mentioned deserves to be dismissed.

8. After having heard both the sides, the primary issue for consideration before this Court is *'Whether the criminal cases pending before different Trial Courts in four States can be transferred to one Trial Court in one State?; Whether transfer of case of one of the criminal case which is at the final stage of trial before concerned Court in Nagpur, can be directed to be transferred at such belated stage?'*

9. To answer the aforesaid questions, first of all it is necessary to know the underlying intention of Section 406 of CrPC. Section 406 deals with the power of Supreme Court to transfer the cases. The Court can exercise such power for fair trial and to secure the ends of justice. The language impliedly left the transfer of the cases on the discretion of the Court. If the Court is satisfied that it is imperative to transfer the cases in the interest of justice or to secure ends of justice, then it may do so.

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10. In the instant case, it is not in dispute that since 2002, multiple FIRs across four States namely; Gujarat, Maharashtra, New Delhi and West Bengal have been filed against petitioner and other accused persons containing broad and common allegations pertaining to act done in collusion by accused persons to defraud the complainants and misappropriate the money raised thereby while dealing/trading in government securities in the name of accused company M/s Home Trade Limited. The State in its counter affidavit has stated that during investigation, the accused

Company was found not to be eligible to deal in transactions relating to government securities, whereas, petitioner and other accused person namely Sanjay Hariram Agarwal were acting as Directors and authorized signatories of accused Company. From a bare perusal of the facts and FIRs, it is seen that there is commonality of facts in each FIR and that most of the transactions have taken place in Mumbai. Further, the FIRs mainly have petitioner and Sanjay Hariram Agarwal as common accused persons.

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11. As per the details provided by petitioner in a chart annexed with petition, out of all the nineteen FIRs registered against petitioner and other accused persons, one FIR has been registered in Kolkata, West Bengal; two FIRs are registered in Delhi; nine FIRs are registered in different districts of Gujarat and seven FIRs are registered in different districts of Maharashtra. Furthermore, as stated by petitioner and unrefuted by respondent State, out of total 689 witnesses in all nineteen cases pending before respective Trial Courts, 236 witnesses are from Mumbai. It is further not disputed that in multiple cases, almost 20 years have lapsed and yet majority of the trials are pending at the initial stage. It wouldn't be out of place to mention that primary reason for such delay is the multiplicity of proceedings alongwith practical difficulties for the Trial Court to secure the presence of witnesses as well as accused for concluding the trial.

12. The contention of the State that prejudice will be caused if the transfer is allowed at such a belated stage when one of the criminal proceedings is at the final stage is bereft of merit. At

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this juncture, it is apt to refer order dated 24.06.2021 passed by High Court of Judicature at Bombay in Criminal Application No. 628/2021 filed by accused Sanjay Hariram Agarwal seeking transfer of criminal cases pending against him. The same is reproduced for ready reference as thus:

“.....(ii) We direct that the trial in said C.C. No. 147/2002 (Crime No. 101/2002 registered with Ganesh Peth Police Station, Nagpur) be completed by passing final judgment and order within maximum period of four months from today. We make it clear that we are granting maximum four months’ time in view of Covid-19 restrictions.....”

(iii) We make it clear that after completion of trial in said C.C. No. 147/2002 (Crime No. 101/2002 registered with Ganesh Peth Police Station, Nagpur) against other accused except the Applicant, the trial against Applicant be commenced by conducting the same expeditiously and preferably on day-to-day basis and the same be completed within a period of four months after commencement of trial against present Applicant.”

As is evident from the aforesaid order, the High Court directed completion of trial in C.C. No. 147/2002 in a time bound

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manner against other accused persons except the applicant i.e., Sanjay Hariram Agarwal (accused no. 3 in C.C. No. 147/2002). The High Court further directed that once the trial against other accused persons is completed, then only trial against applicant therein shall commence. The High Court effectively split the trial of other accused persons from trial of Sanjay Hariram Agarwal and caused serious prejudice. As is gathered from the records and also stated above, accused Sanjay Hariram Agarwal alongwith petitioner herein were acting in the capacity of the Directors of accused company. The person who could have put the best defence (oral as well as documentary) before Trial Court where evidence led by prosecution was common and mostly related to same transaction, was effectively excluded by the order of High Court. In my considered view, such an approach taken by High Court is prima-facie amounts to differential treatment, causing serious prejudice to the right of fair trial of other accused persons including the petitioner herein.

13. In view of the foregoing discussion, considering the common nature of allegations raised against the petitioner in all

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FIRs and criminal proceedings emanating therefrom which are yet pending before respective Trial Courts in four States, I am of the opinion that to meet the ends of justice and fair trial, the transfer petitions deserve to be allowed. Therefore, the instant transfer petitions are disposed-off with the following directions:-

- a) The criminal cases, as specified in para 1 (clause (i) to (xvi)) of this order shall be transferred from the courts, where those are pending, to the court of Principal Judge, Bombay City Civil and Sessions Court, Fort, Mumbai - 400032, Maharashtra;
- b) the Principal Judge is at liberty to assign the cases to any of the Court situated in his jurisdiction to try all those cases. He is also at liberty to assign some of the cases to any other courts also, if necessary;
- c) it is further directed that the transferor courts shall immediately transmit the record of concerned cases to the Principal Judge, Bombay City Civil and Sessions Court, Fort, Mumbai - 400032, which should reach on or before 31.10.2022;

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- d) all the accused in the concerned cases shall appear before the Principal Judge, Bombay City Civil and Sessions Court, Fort, Mumbai on 14.11.2022;
- e) on assignment of those cases to the concerned Court(s), as directed hereinabove, the said Court(s) shall frame the charges within a period of two months from the date of appearance, or on securing presence of the accused persons, if absent; and thereafter the trial be concluded as expeditiously as possible, not later than two years. It is needless to observe that the examination of the witnesses in all cases will be recorded by the Court(s) separately, thereby it should not cause any prejudice to any accused.

.....J.
(J.K. MAHESHWARI)

New Delhi;
September 9, 2022.

T.C
B.V
A.C.V

Exh C

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**First Information of a Cognizable Offense Reported at the Police Station under
Section 154 of the Code of Criminal Procedure**

Crime Register No.: I-274/2002

Sub-Division: Varachha Police Station

District: Surat

Date and Time of Offense: From 06/12/2001 until the present date

1. Date and Time of Reporting: 06/08/2002 at 10:15 hours.
2. Place of Offense, Distance, and Direction from Police Station: Surat Nagarik Sahakari Bank Limited, behind Gitanjali Cinema, Varachha Road, 2 furlongs north of the police station, near Sardar Chowki.
3. Date of Dispatch from Police Station: 06/08/2002.
4. Name and Address of Informant and Complainant: Mr. Naineshbhai Arvindbhai Chintaniya, aged 33, occupation: service, resident of 27/8, Samrat Apartment, Fifth Floor, Soni Faliya, Surat, and authorized officer of Surat Nagarik Sahakari Bank Limited.
5. Name and Address of Accused:
 - (1) Omtrade Limited, with head office at J-5, Vashi Railway Station Complex, Mumbai-400703
 - (2) Mr. Nand Kishor Shankar Lal Trivedi, aged 45, occupation: business, resident of Dev Bhuvan, Second Floor, Room No. 32, Gajdar Street, Chira Bazaar, Mumbai-2
 - (3) Ketan Kantilal Sheth, aged 40, occupation: business, resident of 193, Lalit Kutir, C.H.S., Third Floor, Gulmohar Cross Road No. 9, J.V.P.D. Scheme, Andheri West, Mumbai-49
 - (4) Sanjay Hariram Agrawal, aged 35, occupation: business, resident of Juhu Shalimar, C.H.S. Limited, Seventh Floor, Gulmohar Cross Road No. 10, Mumbai-400049

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(5) Subodh Bhandari, aged 37, occupation: business, resident of 704/B, Govind Complex, Sector 14, Vashi, Navi Mumbai-400705

(6) Hiten Bhupendra Shah, adult, occupation: business, resident of 102, Gandhi Niwas, Ashok Nagar Road, Vakola, Shantakunj, Mumbai-400055

(7) Mr. Hiren Gada, adult, occupation: business, resident of Mumbai, current address unknown

(8) Mr. Shashank Gopal Ranade, aged 40, occupation: business, resident of 3/1, Radhakrishna Niwas, Ground Floor, Dagadiwadi, S.K. Bole Road, Dadar (C.N.J.), Mumbai-400028

(9) Mr. Vijay Himatlal Modi, aged 46, occupation: business, resident of A/203, Asmita Co-operative Housing Society Ltd., Kulupwadi Road, Borivali (East), Mumbai-400066

(10) Mr. Salil Dinakarlal Gandhi, aged 43, occupation: business, resident of 11/13, Gold Coin Co-operative Housing Society Ltd., Tardeo, Mumbai-400034

(11) Alan James Macmillan, aged 41, occupation: business, resident of 785 Tareto Street, Montanyu, C.A. 94041, U.S.A.

(12) Rasal Bankekam Wegar, adult, occupation: business, resident of Timber Hall Terraces, Sayan Geld, A.M.E. 1940, U.S.A.

(13) Mr. Mike alias Manoj Ambelal Shah, aged 58, occupation: business, resident of Belaro Road, R.M. Extension, Bangalore-5060080

(14) Mr. Dhananjay Agrawal, adult, occupation: business, resident of Mumbai, current address unknown

(15) Mrs. Shilpa Hiten Shah, adult, occupation: business, resident of 102, Gandhi Niwas, Ashok Nagar Road, Vakola, Shantacruz, Mumbai-400055

(16) Mrs. Jagruti Ketan Sheth, adult, occupation: business, resident of 193, Lalit Kutir, C.H.S., Third Floor, Gulmohar Cross Road No. 9 (J.V.P.D.), Mumbai-400049

(17) Miss Kanan Mewawala, aged 28, occupation: business, resident of Jayant Mahal, Fifth Floor, opposite Wankhede Stadium, Marine Drive, Mumbai-28

(18) Mr. Ketan R. Mashkariya, aged 35, occupation: business, resident of Mumbai, current address unknown

(19) Mr. Niraj A. Surati, aged 34, occupation: business, resident of Suryo Flats, First Floor, Surya Shopping Complex, Bharuch, District Bharuch

(20) Mrs. Kruti Niraj Surati, adult, occupation: business, resident of Suryo Flats, First Floor, Surya Shopping Complex, Bharuch

6.. Brief Description of Offense, Including Sections, and Description of Property Taken, if Any:

The accused, with the intent to defraud from the outset, misrepresented that they were authorized by SEBI to deal in government securities, despite lacking such authorization. They provided a forged SEBI certificate and conducted transactions with the complainant bank. They neither possessed government securities nor had contracts with others to purchase such securities, yet they provided false contracts and other documents, knowing them to be fraudulent. Thus, all the aforementioned accused, in collusion and with mutual assistance, made false representations and promises to the complainant bank from the outset, acting with malicious intent and deceit, fraudulently and dishonestly misappropriating a substantial amount of Rs. 16,09,60,500/- (Rupees Sixteen Crore Nine Lakh Sixty Thousand Five Hundred only), committing cheating and criminal breach of trust under Indian Penal Code (IPC) Sections 406, 420, 409, 465, 467, 468, 471, and 114.

Complaint

Date: 06/08/2002

Complainant: Mr. Naineshbhai Arvinbhai Chintaniya, aged 33, occupation: service, authorized officer of Surat Nagarik Sahakari Bank Limited, resident of 27/C, Samrat Apartment, Fifth Floor, Soni Faliya, Surat. The written complaint dated 01/08/2002 was submitted to the Police Commissioner, Surat City, under reference no. J./Arj/21886/2002 dated 05/08/2002, leading to the registration of this offense. The complaint is as follows:

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The facts of our complaint are as follows:

(1) I, the complainant, am an authorized officer of Surat Nagarik Sahakari Bank Limited. The bank has been engaged in banking activities for the past 29 years and is registered with the District Registrar, Co-operative Societies. The Board of Directors of Surat Nagarik Sahakari Bank, through Resolution No. 8(7) dated 24/05/2002, authorized me to file this complaint against the accused, and this complaint is filed accordingly.

(2) Surat Nagarik Sahakari Bank, henceforth referred to as our bank, operates in accordance with circulars issued periodically by the Reserve Bank of India (RBI). One such circular mandates maintaining a Statutory Liquidity Reserve by investing 25% of Net Time and Demand Liabilities in government securities or approved securities.

(3) Accused Nos. 19 and 20, representing Accused No. 1 (Omtrade Limited), frequently met with us and provided information about government securities, often communicating with Omtrade's directors via mobile phone. They purchased various government securities from Mumbai and assured us of profits, encouraging us to invest. Accused Nos. 19 and 20 facilitated conversations with Omtrade's directors (Accused Nos. 2 to 18), who were actively involved in Omtrade's business and played a significant role. They repeatedly urged us to purchase government securities through them, promising substantial profits. Lured by their enticing and tempting promises, we placed trust in them, as the bank had previously purchased government securities from them. Initially, they delivered physical securities and facilitated their transfer in the bank's name, gradually building strong trust with our bank's Board of Directors.

(4) On 06/12/2001, the accused held a meeting at our bank. At 4:30 PM, representatives from Omtrade (Accused No. 1), including Niraj Surati (Accused No. 19), Ketan Sheth (Accused No. 3), Miss Kanan Mewawala (Accused No. 17), and

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N.S. Trivedi (Accused No. 2), attended. They enticed our bank to sell existing securities worth Rs. 12.50 crore, comprising:

G.O.I. 10.47% – 2015 – Rs. 7.50 crore (face value)

G.O.I. 10.70% – 2020 – Rs. 5.00 crore (face value)

They promised higher profits and persuaded us to purchase new securities at lower rates, as follows:

Security Details:

G.O.I. 2010 – 7.50% – Rs. 10.00 crore (face value)

G.O.I. 2009 – 7.00% – Rs. 5.00 crore (face value)

Total: Rs. 15 crore

Through these inducements, they convinced our bank's officials but did not execute a direct sale. A settlement was made on 07/12/2001, with the accused agreeing to deliver securities worth Rs. 15 crore within 4 to 6 weeks.

(5) Despite the accused's assurances, the delivery of the Rs. 15 crore securities was not made within the stipulated time. The bank repeatedly followed up via phone and fax. When delivery was still not provided after a prolonged period, on 21/02/2002, Accused Nos. 19 (Niraj Surati), 3 (Ketan K. Sheth), 17 (Miss Kanan Mewawala), and 2 (N.S. Trivedi) visited the bank. Instead of delivering the securities, they proposed selling the Rs. 15 crore securities and purchasing a new security to yield higher interest returns:

Security Details:

G.O.I. 2017 – 8.07% – Rs. 15.00 crore (face value)

They enticed us with promises of higher interest, and the new security was purchased over the phone. The Rs. 15 crore face value security, including premium and interest, amounted to Rs. 16,09,60,500/- (Rupees Sixteen Crore Nine Lakh Sixty Thousand

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Five Hundred only), which the bank paid in advance. The accused promised delivery within four weeks and provided a contract stipulating the same.

(6) Despite repeated follow-ups, the accused failed to deliver the government securities. We resorted to written correspondence and phone calls. On 23/01/2002, the accused responded, stating that securities were being transferred from RBI offices in different states, promising partial delivery by 30/01/2002 and 07/02/2002. Subsequently, Accused No. 2 (Home Trade Ltd.) faxed details of: Rs. 5 crore at 7.50% and Rs. 3 crore at 7.00% from Riddhi Sahakari Bank Ltd., RBI Bangalore, Receipt No. 312, dated 08/12/2001, Rs. 5 crore at 7.50% (2010) and Rs. 2 crore at 7.00% (2009) from Borat District Co-operative Bank Ltd., Kolkata, RBI D.D.O. Receipt No. 14447, dated 08/12/2001. On 20/02/2002, the accused promised delivery of the Rs. 15 crore security (8.07% 2017) within 4 to 6 weeks, as agreed in the meeting. Delivery was due before the March 2002 closing, by 25/03/2002. On 26/03/2002, we sent an urgent letter via fax and courier to Accused Nos. 1 and 19, noting the failure to deliver by 25/03/2002. In response, Accused No. 1 faxed on 26/03/2002, promising delivery in the first week of April. Despite multiple phone follow-ups, no delivery was made. On 03/04/2002, we arranged an urgent meeting for 04/04/2002, where the accused's statements suggested that the contracts provided were bogus and knowingly false. Under pressure, the accused issued two cheques in the bank's name:

- (1) HDFC Bank, Nariman, Mumbai, dated 14/06/2002, No. 984290, Rs. 7,85,47,045/-
- (2) HDFC Bank, Nariman, Mumbai, dated 21/06/2002, No. 984291, Rs. 8,98,93,600/-

Additionally, the accused provided receipts dated 08/12/2001 from Riddhi Sahakari Bank Ltd., RBI Bangalore (Receipt No. 312) and Borat District Co-operative Bank Ltd., Kolkata (RBI D.D.O. Receipt No. 14447). Upon verification, the RBI confirmed on 13/06/2002 that these receipts were bogus and fabricated, instructing us to take criminal action against the accused.

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(7). The accused, with the intent to defraud from the outset, misrepresented their SEBI authorization, provided a forged SEBI certificate, and conducted transactions without possessing government securities or contracts to purchase them. They knowingly provided false contracts and documents, colluding and assisting each other to deceive the complainant bank, making false promises with malicious intent, and fraudulently misappropriating Rs. 16,09,60,500/- (Rupees Sixteen Crore Nine Lakh Sixty Thousand Five Hundred only), committing cheating, criminal breach of trust, and forgery under IPC Sections 406, 420, 409, 465, 467, 468, 471, and 114.

(8) We have filed this complaint against the aforementioned accused. However, we also lodge a complaint against any others found during the investigation to have participated in or abetted the offenses described herein.

Our Witnesses:

(1) Mr. C.C. Shah

(2) Mr. Mahesh K. Vaidh

Additional witness names will be provided if required.

Surat Nagarik Sahakari Bank Limited, Surat

Bhagal Branch Seal

Date: 01/08/2002

For Surat Nagarik Sahakari Bank Ltd.

Sd/- N. A. Chitanami

Authorized Officer

Enclosed: The photocopy of necessary documentary evidences attached, no. 1 to 30.

Before,

Part-1 (of I-II) CC-100521/2003 IPC Sec. 406, 420, 409, 465, 468, 471, 114 FIR No. 274/2002
9th Addl. Senior Civil Judge & ACJM, Surat, Gujarat, Ketan Kantilal Seth Vs. State of Gujarat

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Sd/- Illegible
(G. K. Chaudhary)
Police Inspector
Varachha Police Station
Surat city.

Copy dispatched with compliments to:

Hon'ble Chief judicial Magistrate,

Surat City.

Date: 06/08/2002.

Sd/- Illegible
(G. K. Chaudhary)
Police Inspector
Varachha Police Station,
Surat city

T-C
CC
AN


pI am not member of Advocate welfare fund therefore stamp of Rs 2 is not affixed
herewith

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.

OF 2025

Dist.: -Mumbai

Sanjay Hariram Agarwal

) ...Petitioner

V/s

State of Maharashtra & Anr.

) ... Respondents

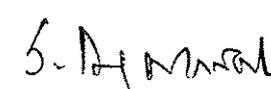
VAKALATNAMA

I Sanjay Hariram Agarwal, Petitioner hereinabove, do hereby, nominate and appoint Mr. DIPAK N. MANE, Advocate High Court, to act, appear and plead for me in the above Application.

IN WITNESS WHEREOF, we have set and subscribed our respective hands to this writing on this 22 day of December, 2025.

I Accept


Dipak N. Mane
Advocate High Court
7, 1st Floor, Building no.6,
M.K. Amin Marg, Borabazar,
Fort, Mumbai – 400 001,
Cell No. 9271777197
Email dipakmane777@gmail.com
Adv. Code: I-9128, MAH/2287/2008


Petitioner
(Sanjay - Hariram Agarwal)

