

MHKO010044132025



ORDER BELOW EXH.9 IN SESSIONS CASE NO.246/2025

(State of Maharashtra Vs. Somnath @ Somya Pawar)

1] Perused application, affidavit and say. Heard Advocate for accused No.4 and APP for the State.

2] This is second bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (Hereinafter referred as 'BNSS') by accused No.4 in respect of his arrest in C.R.No. 238/2025 registered at P.S.O. Bhudargad Police Station for offences p/u/s. 310(2), 311, 331(6), 305 of the Bharatiya Nyaya Sanhita (Hereinafter referred as 'BNS'). First Informant lodged report stating that Shamrao Ravaji Babar, R/o. Gargoti runs Shri. Ambabai Jewelers Goldsmith shop near Gargoti main road. On 12/9/2025, Shamrao and his wife went to Kheradi, Dist. Ratnagiri. First informant is also running goldsmith shop which he closed at 8.00 p.m. on 14/9/2025. On 15/9/2025 at 3.30 a.m. he received call from his friend residing near his goldsmith shop that he saw 2-3 people while breaking shutter of his shop. First informant and his brother were going towards their shop and on the way they met their friend Samrat who told that said people went towards house of Shamrao. Therefore they all went at backside of shop of Shamrao. They saw door of his house was opened and in light of battery, they saw some people doing movements. As Shamrao was out of Gargoti, first informant doubted and went inside the gate. 5 to 6 people came outside house of Shamrao and out of them one threatened to kill and he went on their person with Katawani. Other unknown persons also came towards them, then two people came outside the house and all of them threatened to kill first informant and others. When those 7-8 persons went in dark, first informant and others shouted. They saw that bolt of door of house of Shamrao Babar

was cut by Katawani, lock was broken, common wall of goldsmith shop of first informant and one bangles shop was broken, shutter of his goldsmith shop was broken. On 15/9/2025 at 2.30 p.m. Shamrao and his wife returned to house and they found that gold and silver ornaments kept in steel and wooden cupboard of their house including gold Zumake, tops, ring, Silver Ganpati idol, necklace, wrist ornaments, Toe rings (Jodavi), bracelets, coins etc. worth Rs.87,300/- were stolen. During investigation it revealed that there was collusion of accused No.1 to 13 and they committed offence of dacoity.

3] According to accused No.4, he is falsely implicated. He has not committed alleged offences. FIR is against unknown persons with inconsistent statements so there are doubtful circumstances. As per FIR, first informant, his brother and friend went at spot, but they failed to take efforts to apprehend those unknown people. No proper test identification parade is conducted. There is no recovery or discovery of incriminating material from accused. Accused No.4 was not at alleged spot of incident, he was in Kolhapur with family members for visiting Mahalaxmi and Jotiba temple so he is arrested on suspicion with vague allegations. In FIR there are no allegations against him. After completion of investigation charge-sheet is filed. Co-accused No.7, 8 and 10 are already released on bail and there is ground of parity. Bail is rule and jail is exception. Accused No.4 is 25 years old, he is doing Labour work. He is resident of Warpgav, Tal. Kej, Dist. Beed. He has no criminal antecedents. He is ready to abide conditions and prayed to release him on bail.

4] APP, I.O. objected application on the grounds that though charge-sheet is filed there are allegations that all accused including present accused were having dangerous weapons with them, they committed dacoity and went on person of first informant, witnesses with weapons, threatened to kill them. Accused No.4 was in contact with accused No.13. Yet accused No.13 is

not traced out. Accused persons are habitual offenders having criminal antecedents. There are about 24 offences against accused No.12, 11 offences against accused No.6, 5 offences against accused No.11 and 31 offences against accused No.1 of theft, house breaking, dacoity etc. In some offences they were convicted. In spite of it, they repeated such type of serious offences. There is terror in the mind of public about all accused. There is possibility of tampering prosecution evidence and they prayed to reject application.

5] Allegations against the accused No.4 are serious. From statement of First Informant and other material in charge-sheet, role attributed to accused can be gathered. It is alleged that accused No.4 and other accused were in collusion, with the help of weapon i.e. Katawani they have broken lock of house of Shamrao and by entering in his house they committed theft of gold and silver ornaments from their house worth Rs.87,300/-, details are given in FIR. They also tried to dis-mantle common wall between bangles shop and jewelers shop of first informant and they threatened to kill first informant and others. Advocate of accused No.4 submitted that no proper test identification parade is conducted. Accused No.4 is arrested only on suspicion, he was not at spot of incident. He was in Kolhapur to visit Mahalaxmi, Jotiba temple. He has no criminal antecedents. Due to release of accused No.7, 8 and 10 there is ground of parity. Bail is rule and jail is exception. APP for State submitted that other accused have criminal antecedents. This accused was in contact with accused No.13. There is possibility of tampering prosecution evidence and absconding of accused.

6] After completion of investigation charge-sheet is filed and in police papers there are statements of first informant, other witnesses. Spot panchanama is prepared and weapons, articles used in offence are seized. There are two seizure panchanamas by which gold, silver ornaments, mobile

phones are seized. As per panchanama dt. 16/9/2025, mobile phone of accused No.4 is seized during his physical search. There is nothing on record about seizure of stolen articles from possession of accused No.4. In reply investigating officer stated that there is offence against this accused but details are not given. As per affidavit submitted by Advocate of accused he has no criminal antecedents. Test Identification parade is already conducted. Accused No. 7, 8 and 10 are released on bail. No doubt considering nature of offence there is gravity. However due to filing of charge-sheet and role attributed to accused No.4, his further detention is not required. As charge-sheet is recently filed, trial will take time. Accused is 25 years old, doing labour work. His family members are depending on him and he is resident of Warapgaon, Tal. Kej, Dist. Beed. There is nothing on record about his antecedents. Previous bail application was rejected as investigation was going on. Due to filing of charge-sheet there is change in circumstances. In view of nature of offences and for securing presence, strict conditions are to be imposed. No purpose would serve by keeping accused behind bar for unknown period. Therefore application deserves to be allowed with following order.

ORDER

- 1] Application is allowed.
- 2] Accused No.4 Somnath alias Somya Sundar Pawar be released on executing P.R. bond of Rs.75,000/- with one or two sureties in the like amount. One local surety be furnished.
- 3] Accused shall attend every date of this proceeding.
- 4] Accused shall attend concerned police station between 11.00 a.m. to 2.00 p.m. till 5th date of every month till one year.
- 5] Accused shall not threat, pressurize prosecution witnesses, shall not repeat the offence and shall not tamper the prosecution evidence in any manner.
- 6] Accused shall co-operate investigating machinery as and when required.
- 7] Accused shall not leave Maharashtra without permission of court.

- 8] Prior to furnishing surety, the accused shall submit his address proof, mobile number and inform about the change in address and mobile number.
- 9] Accused shall submit list of three blood relatives with their detail residential addresses and addresses of their place of work.

Date : 18.06.2026

(Smt. R.V. Adone)
Additional Sessions Judge,
Kolhapur.

Certificate

“ I affirm that the contents of the P.D.F. File order are same word for word as per original order.

Sd/-

[A. A. Patil]
(Stenographer G-1)