

**MHKO010047492023**



**ORDER BELOW EXH. NO.34 IN SESSIONS CASE NO. 276/2023**

**State of Maharashtra**

**Through Karveer P S. ... State**

**Vs.**

**Vishal Shivaji Varekar ... Accused No.2**

1. This bail application is moved by the applicant/accused No.2 in C.R.No.406/2023 registered with Karveer Police Station under Section 395, 397, 120(b), 324, 323, 504 r.w. 34 of I.P.C and section 3 and 25 of Arms Act.

2. The applicant was arrested on 11/06/2023. His earlier temporary bail application was allowed and he was permitted to perform last rites of his deceased mother. The said order was extended and thereafter the applicant surrendered himself before the Jail Authority on 20/06/2024. During stay, the applicant came to know that his wife is suffering from severe spine problem and she is unable to work. Earlier applicant's mother used to help and to look after his kids and as she is no more, his wife has to look after the children. The doctor has advised his wife to take special medical treatment and to undergo surgery. Therefore, the applicant has prayed to release him on bail.

3. Ld. Advocate Preeti Chitnis for the applicant argued as per application and submitted that the applicant has not committed any overt act in the offence. She argued that there are allegations of conspiracy which are to be proved at trial. She is submitted that there is no previous conviction against present applicant. She relied upon loan documents and medical certificate of applicant's wife Priyanka Varekar. The applicant obeyed all the conditions when previously interim bail was granted to him and he has not misused liberty, but has voluntarily surrendered himself. She submitted that the applicant will not tamper with the evidence and he has immovable property in Kolhapur and will abide all the conditions, if imposed.

4. Investigating officer and Ld. APP filed say at Exh.41 and opposed the bail application. It is stated that the accused committed serious offence and informant's brother-in-law was grievously injured. Present applicant was involved in conspiracy and he was waiting with a car for other co-accused at the time of offence. Thereafter, gold ornaments were taken to his house and they were distributed to all the accused. Present applicant also took accused No.1 with him to drop accused Nos. 4 to 7 at Pune. Present applicant was in touch with other co-accused and had sent them photos and videos of the said jewellery shop.

5. Ld. APP argued that there are three antecedents bearing C.R.Nos. 87/2022, 379/2023 and 313/2023 which are pending against present applicant for offence punishable under section 379,420 of IPC etc. The police have recovered muddemal worth Rs.27,00,000/- from house of present applicant and he showed the spot where the accused conspired. Present applicant has been identified in T. I. Parade by the witnesses. There is electronic evidence of call records and use of Internet to see news in respect of dacoity. Recovery of gold ornaments more than Rs. One Crore Fifty Five Lakhs and amount of Rs. One Lack Fifty Thousand is still pending, therefore there is possibility of tampering with the evidence or the applicant may commit similar offence, if released on bail.

6. I have carefully considered rival submissions as well as have perused the record. There is allegation against accused No.2 that he was waiting for other co-accused and he helped them in escape with gold ornaments. There is also recovery of gold ornaments from his house. The matter is committed to the Court of Sessions. Two accused are still absconding. The prosecution intends to examine many witnesses. The trial will take its own time. The object of bail is neither punitive nor preventive.

7. On prior occasion, the applicant was enlarged on

temporary bail as his mother died and he had to perform her last rites. He was released on bail on 22/05/2024 for period of 12 days and the said order was extended on 01/06/2024 for further 15 days and he was directed to surrender on 20/06/2023. Meanwhile, it has not come on record even in the say of the prosecution that he tried to tamper with the evidence or tried to jump the bail. The applicant surrendered himself to the jail authority. His conduct shows that he has co-operated and obeyed all conditions.

8. The medical certificate dated 21/12/2024 shows that applicant's wife is suffering from sever Lumbar Spondylises for which she has been advised surgery. Mother of applicant has passed away and there is nobody to look after his minor kids and to pay loan installments.

9. There is allegation of conspiracy of dacoity. However, prima facie, there is no any overt act on part of the applicant in the actual incident of dacoity. It appears that he was waiting for co-accused. Guilt of the applicant is subject to proof of the same by the prosecution. The trial will take its own time. The applicant is behind bars since more than 18 months. His further detention would not serve any purpose. Pending cases is no reason to deny bail to the accused. The applicant is permanent local resident. Considering all these circumstances, nature of offence and role attributed to

present applicant and his conduct, in my view, suitable conditions can be imposed to secure his presence for trial and he can be released on bail. Hence, I pass following order.

**Order**

- 1) The application is allowed.
- 2) The applicant/accused No.2 in C.R.No. 406/2023 registered with Karveer Police Station under Section 395, 397, 120(b), 324, 323, 504 r.w. 34 of I.P.C and section 3 and 25 of Arms Act be released on bail, on his furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand only) on the following conditions:
  - i) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.
  - ii) At the time of executing bond, the applicant shall submit documentary proof of his residence and shall furnish his telephone or mobile number and mobile numbers of his any two relatives and shall inform about any change therein to the concerned investigating officer.

- iii) The applicant shall not commit any offence similar to the offence alleged against him.
- iv) The applicant shall attend dates of trial regularly unless exempted by the Court.
- v) Violation of any of the conditions mentioned above, shall entail the prosecution for cancellation of bail.

3) Bail before committal Court.

Place : Kolhapur.  
Date : 18/01/2025.

( Mrs. Aparna S. Waikar )  
Additional Sessions Judge,  
Kolhapur

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	Mrs.S.R.Tambvekar
Name of Court	Mrs. Aparna S. Waikar, Additional Sessions Judge, Kolhapur.
Date of Dictation	18/1/2025
Order signed by the P.O. on	18/1/2025
Order uploaded on	20/1/2025