



Order below application vide Exh.31 for grant of Regular Bail
under Section 439 of Cr.P.C.
(Passed on this 20th day of Nov., 2023)

The accused **Vijay S/o Babruwan Gaikwad** has filed this application under Section 439 of Code of Criminal Procedure for regular bail after charge sheet.

2. It is contended that, the accused has not committed any offence. No specific overact has been attributed against this accused. The statement of co-accused is not admissible. There is no recovery from the applicant/accused. The applicant/accused is an ex-military man. After his retirement, he is engaged in social and religious activities and due to this, the anti social elements involved him in the crime. He is ready to obey the conditions which would be imposed by the Court.

3. Investigating officer filed reply vide Exh.33 contending that, the applicant/accused and co-accused hatched criminal conspiracy and committed dacoity in house of first informant and stolen the gold, silver ornaments and cash amount total worth Rs.2,98,09,500/- in the house of informant on 12.10.2022. Since the date of incident, the applicant/accused was absconding. On 9.7.2023, the applicant/accused has been arrested. It is further contended that, the applicant/accused hatched conspiracy with

Kishor Narayan Ghangaon, Vicky Kamble and other co-accused and committed the offence. If, the applicant/accused is enlarged on bail, then the possibility of keeping away the remaining absconding accused from arrest and committing any other serious offence can not be ruled out. So, urged to reject the application.

4. Heard, Ld. Advocate appearing for the applicant/accused and Ld. A.P.P. appearing for the prosecution and gone through the material on record.

5. The Crime has been registered against the applicant/accused and the co-accused for the offence punishable U/Sec.395, 397 of I.P. Code and U/Sec. 3, 4 & 25 of the Arms Act. It is allegation of the prosecution that, on 12.10.2022 at or about 3:00 hours, the applicant/accused and other co-accused committed dacoity in the house of first informant and stolen gold and silver ornaments and cash amount worth Rs.2,98,09,500/-. After the incident, various police teams were formed in search of dacoits. On 21.10.2022, the team of P.S.I. M. A. Galgatte took one suspect in the custody. Said suspect has disclosed the names of co-accused. This team also seized cash amount of Rs.10,00,000/- from the said suspect i.e., accused Balu @ Balusing Amarsing Tak. The another Police team took accused Kishor Ghangaon in custody. This accused disclosed the name of other co-accused. The accused Kishor Narayan Ghangaon also disclosed that, prior to two years, he did electric work in the house of informant Agrawal. At that time, he saw the cupboard in the said house. He also came to know that, there used to be lot of money in the house. So, he

decided to commit theft. He disclosed his intention to his friend Vijay Gaikwad i.e., applicant/accused. He also discussed with him. Then, accused Vijay Gaikwad introduced Ganesh Ahire to Kishor Ghangaon. Ganesh Ahire had called his son-in-law Vicky Suraj Kamble. Then, meeting was held between Kishor Ghangaon, Vijay Gaikwad, Ganesh Ahire and Vicky Kamble in the old house of accused Vijay Gaikwad. Thereafter, Vicky Kamble had contacted his friend Takkusing @ Naginasing Kalyani. Thereafter, on 12.10.2022, Takkusing Kalyani and his associates came at Latur in vehicle Maruti Ecco and they halted in the house of accused Ghangaon. Then, at or about 2:00 hours, accused Ghangaon was waiting at a temple near the house of informant and Takkusing and his associates made entry in the house of informant on compound and after some time they came having bags in their hands. Then, they all proceeded towards Pune and on the way distributed stolen property and money amongst them.

6. From this material on record, prima-facie it appears that, the applicant/accused was not present at the place of incident or near the place of incident. There is no allegation of prosecution about any type of aid by the applicant/accused to the other co-accused for commission of the offence of dacoity. There is no recovery of any stolen article or cash from the applicant/accused. There is also nothing on record about meeting of the applicant/accused and co-accused on the day of incident. The investigation is over and charge-sheet has been filed. Now, nothing remains for investigation with this accused. The accused has no criminal antecedent. In such circumstances and from the role of

the applicant/accused in the alleged crime, it is not proper to detain the applicant/accused behind the bars for indefinite period. The applicant/accused deserves to be enlarged on bail. Hence, following order.

Order

1. Application is hereby allowed.
2. The applicant/accused **Vijay S/o Babruwan Gaikwad** be enlarged on bail, on executing P.R. bond of **Rs.1,00,000/- (Rupees One Lakh only)** with one or more surety in the like amount subject to following conditions.
 - i] Applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.
 - ii] Applicant/accused shall not tamper the prosecution evidence in any manner.
 - iii] Applicant/accused shall not leave India without prior permission of this Court.
 - iv] Applicant/accused shall give intimation in writing to investigating officer and this Court as and whenever he changes his residential/temporary addresses.

(Dictated & pronounced in the open Court).

Sd/-

Latur

Dated : 20.11.2023.

(D. B. Mane)

**Additional Sessions Judge-4,
Latur.**