

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

928 BAIL APPLICATION NO.1801 OF 2022

VIPIN HARIBHAU GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S. J. Salunke h/f Mr. Gitte Mukund D.
APP for Respondent-State : Mr. A. A. Jagatkar.
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CORAM : S. G. MEHARE, J.
DATE : 30.11.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. Learned counsel for the applicant would submit that this Court rejected the bail application of the present applicant on 07.04.2022 on merit. After that, this Court granted bail to the co-accused by the order dated 06.10.2022. His role is similar to the role attributed to the present applicant. Hence, the applicant may be granted bail on parity.
3. Learned APP strongly opposed the application. He would point out that the role attributed to the accused, who has been granted bail, is apparently different. The bail has been granted to the co-accused after considering the merits of the case of the

present applicant. Hence, the applicant is not entitled to bail on the ground of parity, and that is not the change in circumstances.

4. Learned counsel for the applicant would rely on the case of *Babu Singh and others Vs. The State of U.P AIR 1978 SC 527*, and argued that the applicant seeking bail, if given more detail, further developments and different considerations, may file a bail afresh. After going through the case law, it pertains to Section 389(1) of the Cr.P.C. as well as the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act (28 of 1970), Section 2(a). The principle applied in the said case pertains to the entitlement of the bail to the accused, who has already been convicted and approached the Hon'ble Supreme Court under appeal. Here in the present case, the applicant is claiming bail under Section 439 of the Cr.P.C.

5. The co-accused has been granted bail subsequent to the rejection of the bail application of the present applicant. Hence, this Court is of the view that the parity in such a particular case may not be a change in circumstance. Except this, the applicant has not pressed into service any other ground. In view of the facts of the case, the Court believes that the applicant cannot claim the bail only on the grounds of

granting bail to the co-accused claiming to be the change-in-circumstance. While declining his bail, the Court had considered the material relevant to the role attributed to him.

6. Hence, the application stands dismissed.

(S. G. MEHARE, J.)

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