



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Writ Petition No. 732 of 2023

ardhan s/o Raibhan Jadhav ..vs.. State of Maharashtra through PS.O., PS. Sonegaon Nagpur]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. S. Sohoni with Mr. P. S. Jaiswal, Advocates for the petitioner
Ms. H. S. Dhande, APP for the State/respondent

CORAM : ANIL L. PANSARE J.

DATED : 19-10-2023

Heard.

2. The challenge is to the order dated 14-8-2023 passed by the Adhoc District Judge-6 and Sessions Judge, Nagpur thereby rejecting the application filed by the applicant-accused for recalling seven witnesses. The application has been rejected on the ground that the applicant is seeking to recall 12 witnesses which have been examined by the prosecution. In paragraph no. 9 of the order, the Court notes that P.W. 9 is residing at Panvel, P.W. 10 is residing at Mumbai and P.W. 12 is residing at Nashik. These witnesses are high ranking officers in Police Department and, therefore, cannot be recalled merely because the accused is a strong political personality.

3. To my mind there arises no question of accused being an influential person. As rightly observed by the trial Court that the law for all the persons is same but then one of the reason for which the application has been rejected is that the

applicant-accused has sought to recall all witnesses examined by the prosecution viz. twelve witnesses examined by the prosecution. However, the application clearly demonstrates that the applicant is seeking to recall only first seven witnesses.

4. Learned Additional Public Prosecutor made an attempt to justify the order by contending that law is well settled that merely because the counsel has been changed, the witnesses cannot be recalled.

5. There cannot be any dispute as regards the proposition of law, however, the learned trial Court has travelled beyond the prayer made in the application. The order, therefore, is unsustainable. The same is accordingly quashed and set aside.

6. The application, Exhibit 40 is restored on file of the learned trial Court who shall consider the same afresh in accordance with law and shall dispose of the same without getting influenced by the order passed by this Court.

7. The petition is disposed of in above terms.

(Anil L. Pansare, J.)