



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.696/2025

Athawale Vs. State of Maharashtra, through P.S.O., P.S. Civil Lines, Akola, Tq. and Distt. Akola)

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

Court's or Judge's orders

Mr. S.V. Sirpurkar, Advocate for the applicant.

Ms. Mrunal Barabde, A.P.P. for the non-applicant/State.

CORAM: MRS.VRUSHALI V. JOSHI, J.

DATED: 23.9.2025.

The applicant has filed this second bail application.

2. On 16.12.2024, when after hearing the parties, this Court had shown disinclination to grant bail, the applicant had withdrawn the earlier bail application.

3. This application is filed on the ground that there is a change in circumstance as an eye witness has resiled from his statement given under Section 161 of the Code of Criminal Procedure while giving the statement under Section 164 of Cr.P.C. The statement of said eye witness-Maitrey Vikas Khandare was recorded on 3.2.2024 and he has not mentioned the name of this applicant. The statement is not supporting to the prosecution case and, therefore, according to the learned Advocate for the applicant, this is a change in circumstance. The statement is received on 29.1.2025 and, therefore, he has filed this bail application.

4. The learned A.P.P. has opposed the application stating that if there is a substantial change in circumstance then only the applicant has right to file the second bail application. Learned A.P.P. has relied on the order of this Court in Criminal Application (B.A.) No.1856/2024 (Vaibhav Babanrao Devkate V/s. The State of

Maharashtra), dated 18.8.2025, wherein it is observed that when there has been a substantial change either in the fact situation or in the legal position which would justify the filing of a fresh application, then only the second bail application can be entertained.

5. At this stage, the applicant is claiming that one of the witness has resiled from his earlier statement recorded under Section 161 of Cr.P.C. in statement recorded under Section 164 of the Cr.P.C. and, therefore, there is a change in circumstance. This cannot be a change in circumstance.

6. The requirement of change in circumstance would be controlled by the basic principle that the criminal process should not be misused by filing unjustified applications.

7. The applicant has not pointed out any material change, either in the facts or legal position, which would entitle him to file this second bail application.

8. No fresh ground has been urged which would justify the departure from the settled position.

9. In my considered view, the present second bail application is not maintainable in law and must fail on this short ground. The application is, therefore, rejected.

(MRS. VRUSHALI V. JOSHI, J.)