

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

CRIMINAL APPEAL NO. 561/2021.

Vijay Parsuram Bhimankar.

-VERSUS-

State of Maharashtra through P.S. Durgapur, District Chandrapur and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.A. Dhawas, Advocate for the Appellant.
Shri V.A. Thakare, A.P.P. for Respondent No.1.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 21, 2021.

Heard.

2. This is an appeal seeking pre-arrest bail in Crime No.284/2021 registered with respondent no.1 Durgapur Police Station, District Chandrapur for the offence punishable under Sections 323, 324 read with Section 34 of the Indian Penal Code and along with Section 3[2][va] of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Initially the crime was registered only under Sections 323 and 324 read with Section 34 of the Indian Penal Code. In turn the appellant has

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surrendered before the concerned Magistrate, who has released him on bail in concerned crime bearing No.284/2021. Thereafter, the police have invoked the provisions of Section 3[2][va] of the Atrocities Act. Due to addition of the penal provisions under Atrocities Act, the appellant has approached to the Sessions Court for grant of pre-arrest protection.

4. After hearing both the sides, the Sessions Court by relying on the decision of **Pradeep Ram .vrs. State of Jharkhand and another – (2019) 17 SCC 326**, has expressed that unless the earlier bail is canceled, he cannot be committed to custody, and accordingly, the application was disposed of.

5. The learned Counsel for the appellant would submit that the police are agitating that they require his custody and therefore, the apprehension.

6. Perusal of the decision of Hon'ble Supreme Court in case of Pradeeo Ram (supra), indicates that in case of addition of sections, either the accused can surrender and apply for bail, or the investigating agency can seek an order from the Court for arrest of the accused.

Since the appellant is already on bail and

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there is no cancellation of his previous bail, the apprehension is unfounded. The investigating agency has to take recourse in terms of the decision rendered by the Hon'ble Supreme Court in above referred case of Pradeep Ram (supra). In view of this, present Criminal Appeal is disposed of.

JUDGE

Rgd.