

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

**CRIMINAL APPEAL No. 291/2023.**

Prasanna @ Dau Pramod Meshram,  
Aged 20 years, Occupation – Business,  
resident of Vidarbha Housing Society,  
Bajoria Nagar, Yavatmal,  
[Presently in District Prison,  
Yavatmal].

... **APPELLANT.**

**VERSUS**

1.The State of Maharashtra,  
through Police Station Officer,  
Police Station Lohara,  
Yavatmal.

2.Akash Pundlik Wankhede,  
Aged 23 years, resident of Netaji  
Nagar, Yavatmal.

... **RESPONDENT.**

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Mr. R.M. Daga, Advocate for the Appellant.  
Mr. S.S. Doifode, Addl. P.P. for Respondent No.1 - State.  
None for Respondent No.2 – Served.  
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**CORAM : VINAY JOSHI AND**

**VALMIKI SA MENEZES,, JJ.**

**DATE : JUNE 28, 2023**

**ORAL JUDGMENT (PER VINAY JOSHI, J.) :**

Considering the controversy involved in the matter and with the consent of the learned Counsel present for the parties, the matter is taken up for final disposal at the stage of admission.

**Admit.**

2. This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 raising a challenge to the order rejecting regular bail to the appellant dated 14.11.2022 passed below Exh.202 in Special Case No.29/2020 by the Additional Sessions Judge, Yavatmal.

3. The appellant – Prasanna @ Dau Pramod Meshram was arrested in connection with Crime No.241/2019 registered with Lohara Police Station, Yavatmal for the offence punishable under Sections 302, 307, 143, 147, 148, 149, 120B of the Indian Penal Code, Section 3[2][v] of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Section 4/25 of the Arms Act and

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Section 135 of the Maharashtra Police Act. Besides usual grounds, the appellant has claimed bail on the ground of parity with the co-accused – Rahul Sanjay Shinde @ Shinu, who was released by the trial Court vide order dated 29.04.2023. Moreover, it is contended that yet the trial has not commenced. The appellant is in jail for more than 3 ½ years, and thus, having regard to all above facts he may be released on bail.

4. Learned Addl. P.P. has opposed the bail by pointing towards the seriousness of the offence. It is submitted that the informant as well as other eye witnesses have named the appellant about his overact in the occurrence. Besides that, knife has been seized at the instance of the appellant. Post-mortem note denotes 7 incise injuries. On the ground of parity, it is submitted that as a matter of discipline, the appellant has to approach to the trial Court for bail on said ground.

Respondent no.2 – informant though served, despite being given sufficient opportunities, has chosen to remain absent.

5. At the instance of a report lodged by the injured eye witness namely Akash on 10.12.2019, the aforesaid crime came to be registered. Precisely it is his contention that at the relevant time he saw deceased Vinay Borade being assaulted by means of knife at the hands of Viru Kolhe, Deva, Kandi, Shinu Mesharam and Dau with their associates. In said crime Viru Kolhe also assaulted the informant and then again there was a deadly assault in which Vinay died.

6. During investigation police have recorded statements of eye witnesses namely Amit Deshmukh and Arhan Kale, who stated about the assault. The entire thrust of the appellant appears to be on the ground of parity with Shinu @ Rahul Shinde. Undoubtedly he was released on bail by the trial Court on 29.04.2023 and the said order has not been challenged.

7. The learned Addl.P.P. has submitted that on the ground of parity, the appellant should have first approached the Trial Court, since the impugned order was passed on 14.11.2022 i.e. prior to release of Shinu @ Rahul Shinde. True, normally as a matter of

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practice one should approach first to Sessions Court. Already appellant has applied so, but, vide impugned order it was rejected. In the circumstances, we do not find it just to ask him to again approach the trial Court on the ground of parity. Undoubtedly this Court is invested with concurrent jurisdiction in terms of Section 439 of the Code of Criminal Procedure. Secondly, during the pendency of this appeal the ground of parity occurred. The appeal involves a question of liberty and we deem it appropriate to deal the same on its own merits.

8. There is no dispute about release of Shinu @ Rahul Shinde on bail. We have gone through the first information report [page no.35], supplementary information of the informant [page no.208], statement of eye witnesses Anil [page no.240] and another eye witness Arihant [page no.213]. It reveals that initially the co-accused Viru Kolhe started the assault, on which rest of them, including Shinu and appellant Dau participated in the assault. All the eye witnesses have stated in similar fashion that after initial assault Shinu and Dau dealt knife blows. Moreover, knife has been seized from the appellant as well as Shinu also, who is released on

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bail. In order to deviate from the principle of parity, we find no distinguishing factor. While releasing Shinu on bail, the trial Court has taken into account his long incarceration, inclination to abide condition, completion of investigation and dim chances of commencement of trial. Those reasons do exist as regards to the appellant also. He is in jail for for near about 3 ½ years and yet first witness has not entered the box. Certainly trial will take considerable time for its disposal.

9. In the light of above facts, by applying rule of parity, we deem it appropriate to release the appellant on bail by imposing stringent conditions. Hence, the following order.

### **ORDER**

- [i] Criminal Appeal is allowed.
- [ii] The impugned order dated 14.11.2022 passed by the Additional Sessions Judge, Yavatmal below Exh.202 in Special Case No.29/2020 is hereby quashed and set aside.
- [iii] The appellant - Prasanna @ Dau Pramod Meshram be

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released bail in connection with Crime No.241/2019 registered with Lohara Police Station, Yavatmal for the offence punishable under Sections 302, 307, 143, 147, 148, 149, 120B of the Indian Penal Code, Section 3[2] [v] of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Section 4/25 of the Arms Act and Section 135 of the Maharashtra Police Act, on his furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

- [iv] The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- [v] The appellant shall attend the concerned police station on every alternate Sunday in between 10 a.m. to 12 noon till disposal of the trial.
- [vi] The appellant shall furnish his present address of residence along with cell number to the concerned investigating officer.

**JUDGE****JUDGE**