

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5035 of 2020**

- Premlal Yadav S/o Shri Lalit Yadav Aged About 26 Years R/o Pirda, P. S. Vidhansabha, District Raipur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Suregaon, District Balod Chhattisgarh

---- Respondent

MCRC No. 5103 of 2020

- Neha Thakur W/o Dev Prasad Thakur Aged About 25 Years R/o Parpa, P. S. Suregaon, District Balod Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, P. S. Suregaon, District Balod Chhattisgarh

---- Respondent

For Applicant/Premlal Yadav	:	Mr. Vipin Tiwari, Advocate.
For Applicant/Neha Thakur	:	Mr. Avinash Chand Sahu, Advocate.
For State	:	Mr. Ravish Verma, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****22/09/2020**

Heard.

- Both the applications are being decided by this common order as they arise out of the same crime number. The applicants have moved these applications for grant of bail as they are arrested in connection with Crime No.77/2019 registered at Police Station- Suregaon, District- Balod, C.G. for the alleged commission of offence under Sections 363, 366-A, 376 & 120(B) of IPC and Section 3/4 of POCSO Act.
- Prosecution case is that the applicant- Premlal Yadav assured the prosecutrix for marriage and committed rape on her. Prosecutrix is a minor. Allegation against co-accused Neha Thakur is that Neha Thakur brought

prosecutrix to meet applicant- Premlal Yadav time and again and therefore she is also involved in the conspiracy as by Premlal Yadav under which prosecutrix was subjected to rape.

3. Learned counsel appearing for the applicant-Premlal Yadav would argue that even according to the statement of the prosecutrix, present is a case of love affair but only later on, when dispute arose, now the prosecutrix has started making false allegation. He would submit that according to the prosecution, the age of the prosecutrix is almost 18 years, and therefore, at this stage, when investigation is complete and charge sheet has also been filed, the applicant-Premlal Yadav may be granted bail.

Learned counsel appearing for the applicant-Neha Thakur would submit that the main allegation of rape is against Premlal Yadav. The prosecutrix has nowhere stated in the statement that applicant-Neha Thakur was involved with Premlal Yadav and on the other hand her statement shows that whenever prosecutrix used to meet Premlal Yadav, Neha Thakur accompanied prosecutrix, therefore, no *prima facie* case of commission of offence as against present applicant can be said to be made out with the aid of Section 120-B.

4. On the other hand, learned State Counsel opposes and submits in both the cases that according to the prosecution documents of '*Dakhil Kharij Register*' and mark sheet, date of birth of the prosecutrix is 04.04.2002 and incident happened in the month of December, 2019 which clearly shows that prosecutrix was less than 18 years of age. She was subjected to sexual intercourse by the applicant-Premlal Yadav and later on, prosecutrix came to know that applicant-Premlal Yadav is already married person and having children. The co-accused Neha Thakur had arranged talk of Premlal Yadav with prosecutrix over her mobile phone and every time she accompanied the prosecutrix which shows that she was actively involved with co-accused Premlal Yadav and not with the prosecutrix.

5. On *prima facie* consideration, the statement of the prosecutrix recorded before the Police and the Magistrate discloses that she was called by the applicant and thereafter sexual intercourse was committed and later on, prosecutrix came to know that Premlal Yadav was already married person and having children. Looking to the age of the prosecutrix as per the prosecution document, present is not a fit case for grant of bail to the applicant-Premlal Yadav. Therefore, bail application of the applicant-Premlal yadav is rejected.

As far as co-accused Neha Thakur is concerned, the material on record including statement of the prosecutrix shows that Neha Thakur was friend of the prosecutrix. The entire statement shows that whenever prosecutrix used to go and meet Premlal Yadav, Neha Thakur accompanied prosecutrix and it is not a case that she was accompanying co-accused Premlal Yadav. Therefore, considering this aspect and that investigation is complete, charge sheet has been filed and allegation of commission of rape is on co-accused Premlal Yadav, I am inclined to grant bail to the co-accused Neha Thakur.

6. Accordingly, the bail application of the co-accused **Neha Thakur** is allowed. It is directed that the applicant shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- along with one local surety of the like amount to the satisfaction of the Trial Court on the condition that-

- a) She shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) She shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge