

# Prakash Tiwari vs The State Of Madhya Pradesh on 18 February, 2025

**Author: Sanjay Dwivedi**

**Bench: Sanjay Dwivedi**

NEUTRAL CITATION NO. 2025:MPHC-JBP:7853

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IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE SANJAY DWIVEDI  
ON THE 18th OF FEBRUARY, 2025  
MISC. CRIMINAL CASE No. 5020 of 2025  
PRAKASH TIWARI  
Versus  
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:  
Shri Prakash Upadhyay - Senior Advocate with Shri Swatantra  
for the applicant.  
Shri K.V.S. Sunil Rao - Panel Lawyer for the respondent/Sta  
Shri Alok Tiwari - Advocate for the objector.

ORDER

This is the second application filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) r/w Section 439 of the Code of Criminal Procedure on behalf of the applicant for grant of bail in relation to FIR/Crime No.1082/2024, registered at Police Station Rampur Naikin, District Sidhi, for the offence punishable under Sections 137(2), 64, 127(2) of the Bhartiya Nyaya Sanhita, 2023 (BNS) and Sections 3, 4 of the Protection of Children from Sexual Offences Act, 2012. The applicant is in jail since 08.12.2024.

2. The earlier bail application of the applicant was dismissed as withdrawn vide order dated 17.01.2025 passed in M.Cr.C. No.56440 of 2024 with liberty to revive the prayer after filing of charge-sheet.

3. Learned senior counsel appearing for the applicant submits that the NEUTRAL CITATION NO. 2025:MPHC-JBP:7853 2 MCRC-5020-2025 applicant is aged about 19 years. He submits that although the prosecutrix as per the prosecution is shown to be a minor, but she is otherwise major and aged about 19 years. He submits that the applicant and the prosecutrix both are known to each other and the prosecutrix had gone with the applicant as per her own wish. He submits that

although on the basis of missing report, the prosecutrix was traced out and her statement has been recorded. He submits that the statement with regard to physical relationship has been falsely made whereas situation is otherwise and no such physical relationship was developed. He submits that in the MLC also no injury noticed and therefore, considering the fact that the applicant and the prosecutrix both are known to each other, the prosecutrix had gone with the applicant with her own wish, the age of the applicant is 19 years so also the facts that the medical evidence is also not against the applicant and there was no definite opinion given by the doctor about commission of rape, bail application can be considered.

4. On the other hand, the counsel for the State has opposed the bail application and submitted that the age of the prosecutrix is below 18 years and she has very categorically admitted about commission of rape with her and in every statement even in the statement of 164, she has narrated about such crime and as such, bail application cannot be considered at this stage.

5. The counsel for the objector has also opposed the bail application and submitted that the applicant's party is very influential and they are continuously giving threat to the complainant party for changing the statement in the Court and not opposing the bail application and as per the NEUTRAL CITATION NO. 2025:MPHC-JBP:7853 3 MCRC-5020-2025 threat given, if it is not done, then they would face the consequences. He has submitted that under such circumstances, the bail application cannot be considered because the statement of the prosecutrix is yet to be recorded in the Court and she is being pressurized for changing her statement.

6. I have heard the submissions made by the counsel for the parties and perused the case diary.

7. However, looking to the age of the prosecutrix and the material available on record, prima facie I am not convinced with the submissions made by the counsel for the applicant and in my opinion this is not the proper time to consider the bail application merely because the applicant is 19 years of age. Although, the applicant can revive the bail application after recording the statement of the prosecutrix in the Court.

8. With the aforesaid, the bail application is dismissed.

9. However, the trial Court is directed to expedite the trial and make all endeavours to get the statement of the prosecutrix recorded as early as possible.

(SANJAY DWIVEDI) JUDGE ac/-