

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1003/2008**

Date of decision : 20.05.2008

AJAY KUMAR @ BABLOO Petitioner

! Through : Mr. J.S.Kushwaha,
Advocate

Versus

\$ STATERespondent

^ Through : Mr. Lovkesh Sawhney,
APP for the State.

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**CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH**

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

J U D G M E N T

ARUNA SURESH, J. (Oral)

Crl.M.A. No. 5660/2008 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of accordingly.

BAIL APPLN. 1003/2008

1. Complainant Prem Babu lodged an FIR No.585/2002 in Police Station Dabri, under Section 363 IPC on 26.08.2002 that his daughter Monika, aged about 15 years had been enticed away by the Petitioner Ajay Kumar @ Babloo. During the investigation of the case, the prosecutrix was recovered. She also made her statement under Section 164 Cr.P.C. before the learned Metropolitan Magistrate. In her statement she has roped in the Petitioner for having enticed her away and taking her to Bihar where he allegedly married her in a temple and thereafter sexually harassed her and committed rape on her against her wishes. Consequently, Section 376 IPC was also added in the FIR. Petitioner was absconding and could not be arrested till 27.10.2007 after he was declared proclaimed offender.

2. Mr. J.S. Kushwaha, Advocate, learned counsel for the Petitioner has submitted that the prosecutrix was major as she was 16 years old. She left her parents house without informing them of her own. She married

the accused/petitioner and lived with him as his wife voluntarily and therefore petitioner is entitled to be released on bail.

3. The contentions of the learned counsel for the Petitioner are fortified from the fact that the prosecutrix was kidnapped on 21.08.2002 and on 24.08.2002 he took her to Bihar where he allegedly married her in a temple and he sexually harassed the prosecutrix in a rented room for about two months. Accused-petitioner himself left the prosecutrix at the railway station, Delhi on 21.10.2002 at about 11.30 A.M.. Since thereafter his whereabouts were not known and he never contacted the prosecutrix. Prosecutrix was about 15 years of age on the date of the incident as per the admission card for regular candidate for taking examination which was scheduled to take place on 30th July, 2002. According to this admit card, her date of birth is 26.07.1987. The incident took place on 21.08.2002. Therefore, prosecutrix was 15 years of age at the time of the incident. Her father had also given her age in the complaint as 15 years. Hence, prima facie she was minor at the time of incident and could not have been a

consenting party to join the company of the Petitioner, to marry him and live with him as his wife as alleged by the Petitioner.

4. Allegations against the petitioner are serious in nature. Not only this, the conduct of the Petitioner is evident as he absconded away and evaded his arrest for over a period of five years. There is every likelihood of his absconding away if released on bail. Hence, I find no merits in the petition and the same is accordingly dismissed.

5. Attested copy of the order be sent to the concerned trial court as well as to the State.

**ARUNA SURESH
(JUDGE)**

**May 20, 2008
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