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Gurdeep Ruhela vs.state

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Court : Delhi

Decided On : Sep-24-2018

Appellant : Gurdeep Ruhela

Respondent : State

Advocate for Def. : Mr. Ashish Dutta

Advocate for Pet/Ap. : Mr. S.N. Khanna, Mr. S.V. STATE Vats

Judgement :

$~43 IN THE HIGH COURT OF DELHI AT NEW DELHI + Decided on:-

"24th September, 2018 BAIL APPL. 2236/2018 & CRL.M.A. 32810/2018 GURDEEP RUHELA .....

... Petitioner
Through: Mr. S.N. Khanna & Mr. S.V. STATE Vats, Advs. versus ..... Respondent Through: Mr. Ashish Dutta, APP for the State. CORAM: HON'BLE MR. JUSTICE R.K.GAUBA ORDER (ORAL) 1. The first information report (FIR) No.936/2016 registered by police station Mukherjee Nagar was lodged on the complaint of mother of the prosecutrix on 03.12.2016 respecting the suspected kidnapping of her daughter, described to be 13 years old on 01.12.2016. Later suspicion about complicity of the petitioner was expressed. While the police was trying to trace the petitioner, and the prosecutrix girl, they approached the High Court of Allahabad by writ petition (civil) No.57874/2016 on 07.12.2016, inter alia, claiming that they

were married to each other, the marriage having been solemnized at Prayag, Uttar Pradesh on 04.12.2016. The High Court directed the ossification test of the prosecutrix to determine her age. It appears, Chief Medical Officer, Allahabad gave an opinion that the prosecutrix BAIL APPL. 22
 was aged about 16 to 18 years. The petitioner subsequently moved this Court by W.P. (Crl.) 122/2017 seeking quashing of the FIR No.936/2016 in January, 2017. While the said petition was pending, statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she seems to have given a version supportive of his claim about she having accompanied him of her own free will and volition. It appears directions were given in the said criminal writ petition on 03.03.2017 for the prosecutrix to be accommodated in childrens home and for fresh determination of her age, the petition being eventually disposed of by order dated 17.05.2017 with observations that questions of fact required to be determined after investigation.

2. During the course of investigation, the final report whereof is stated to have been submitted leading to a sessions case being brought against the petitioner, school records have been traced, the earliest in which respect relates to a school in Baraout (Baghpat), Uttar Pradesh where the prosecutrix was enrolled on 04.07.2011 in second standard, her date of birth being recorded as 09.01.2004. Though it does appear that there is a different date of birth in another educational school where the prosecutrix was subsequently enrolled on 02.07.2012 in sixth standard, it being recorded as 18.06.2003, the earlier record of school showing the date of birth cannot be ignored.

3. By any reckoning, the prosecutrix was a child on the date she was taken away from the lawful guardianship, care and control of her parents, this rendering it to be a case of kidnapping. Since even by the claim of the petitioner and the statement of the prosecutrix would show that they eventually entered into some ceremonies in the nature BAIL APPL. 22
 of marriage on 04.12.2016 and having cohabited thereafter, during her minority, the ingredients required, prima facie, constituting offences punishable under Sections 366 and 376 IPC on one hand and Section 6 of the Protection of Children from Sexual Offences Act, 2012 are made out, in as much as the

evidence gathered during investigation also shows that the petitioner was 34 years old on the relevant date and was already married to another person and, therefore, not qualified to enter into a second marriage with the prosecutrix.

4. Having regard to the grave facts and circumstances, in the background of serious offences mentioned above, the denial of release on bail by the court of sessions by order dated 16.08.2018 is not erroneous. There is no good reason to take a different view. The petition and the application filed therewith are dismissed.

5. R.K.GAUBA, J.

SEPTEMBER24 2018 nk BAIL APPL. 22

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