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**Dharmesh Kumar @ Dharmendra Vs. the State (Nct of Delhi)**

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**SooperKanoon Citation :** [sooperkanoon.com/697502](http://sooperkanoon.com/697502)

**Court :** Delhi

**Decided On :** May-10-2005

**Reported in :** 120(2005)DLT138; I(2005)DMC876

**Judge :** Badar Durrez Ahmed, J.

**Acts :** [Hindu Marriage Act, 1955](#) - Sections 8, 8(4); Indian Penal Code (IPC) - Sections 376

**Appeal No. :** Bail Application 355/2005

**Appellant :** Dharmesh Kumar @ Dharmendra

**Respondent :** The State (Nct of Delhi)

**Advocate for Def. :** M.N. Dudeja, Adv.

**Advocate for Pet/Ap. :** K.K. Manan and Vinay Singh, Advs.;

**Judgement :**

**Badar Durrez Ahmed, J.**

1. The petitioner has been in custody since 28.10.2004 The learned counsel for the petitioner submits that the petitioner and the prosecutrix were married in the Arya Samaj Mandir on 27.08.2004, a certificate to that effect is placed at page 21 of the paper book. He submits further that a marriage certificate under the [Hindu](#)

[Marriage Act, 1955](#) (hereinafter referred to as the 'Hindu Marriage Act') and particularly Section 8 thereof has been obtained which is placed at page 23 of the paper book. The said registration was done on 03.09.2004 before the ADM / Marriage Officer. The date of birth of the prosecutrix admittedly is 07.08.1986 which would not make her a minor on the date of occurrence of the incident in respect of the provisions of Section 376 IPC. Furthermore, the learned counsel for the petitioner pointed to a letter dated 17.09.2004, a copy whereof is placed at page 25 of the paper book which has been written by the prosecutrix to the SHO Anand Vihar Police Station stating that her marriage was solemnised on 27.08.2004 with one Dharmesh Kumar at the Arya Samaj Mandir and the same had been registered before the Registrar of Marriages and that if her parents or anyone came before the SHO with any complaint in respect of her, then the same should not be entertained and that she was not kidnapped.

2. The learned counsel for the State opposed the grant of bail.

3. However, the totality of the circumstances of the case must be looked at. The photographs placed on record do not indicate that the prosecutrix was under any duress at the time of her wedding. Furthermore, 7 days after the marriage at the Mandir, the prosecutrix and the accused appeared before the Marriage Officer for the registration of their marriage and a certificate of registration has also been issued and, therefore, in terms of Section 8(4) of the Hindu Marriage Act, the same had to be regarded as admissible and a presumption is raised unless otherwise disproved.

4. In these circumstances, the petitioner is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the concerned court.

5. It is, however, made clear that the petitioner shall not attempt at establishing any contact with the prosecutrix or any member of her family. The petitioner shall also not attempt at establishing any contact with any of the witnesses in the case and he shall not come near the residence of the prosecutrix or near the place of work, which is under the jurisdiction of P.S. Gandhi Nagar.

The application stands disposed of.

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