

IN THE HIGH COURT OF DELHI AT NEW DELHI

Bail Application No. 2013/2007

Rita Petitioner
! through: Mr. Rakesh Sherawat with
Ms. Mamta Chandra, Advocates

VERSUS

\$ State Respondent
^ through: Mr. Ranjit Kapoor, Advocate

% **DATE OF DECISION:** 27-09-2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y
2. To be referred to the Reporter or not? Y
3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.** (ORAL)

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FIR No.227/2007
U/S.363/366/376 IPC
P.S. Badarpur

1. Petitioner Rita is in judicial custody since 21.3.2007.

She is 22 years of age and has a minor son aged 3 years. The child is under treatment for a medical ailment.

2. Case of the prosecution against the petitioner is that the prosecutrix Kumari P., a minor, was enticed by the petitioner and her husband and made to join company of co-accused, Raghudas, who committed rape on Kumari P. Role of the petitioner is as per statement of Kumari P. recorded under Section 164 Cr.P.C. who stated that on 7.3.2007 she had gone to

Gautam Puri where she was undergoing a course in stitching. That Rita came to the class and told the supervisor that Kumari P's mother was unwell. That she i.e. Kumari P. left the stitching class in company of Rita who took her to the house of Raghudas where Rita's husband was present. That Raghudas threatened her and performed the ritual of a marriage. Thereafter, he committed rape on her.

3. It is relevant to note that father of Kumari P. had lodged a report with the police that his daughter Kumari P. was missing. The report was lodged on 11.3.2007. He had named Raghudas as a suspect.

4. Thereafter, on 20.3.2007 afore-noted FIR restricted to offence under Section 363/366 was registered because father of Kumari P. informed the police that he suspected that his daughter was kidnapped in order to marry her with Raghudas.

5. It appears that Raghudas learnt about the registration of the afore-noted FIR on 20.3.2007 for the reason, on 21.3.2007, he and Kumar P. went to the courts at Patiala House to meet a lawyer and prepare some papers evidencing that the two had got married. Raghudas was apprehended alongwith Kumari P. from the precincts of Patiala House Courts. Kumari P. was recovered. Raghuraj was taken into custody. Thereafter, Kumari P. made a statement not only to the police but even under Section 164 Cr.P.C. as afore-noted.

6. It is apparent that the prosecutrix remained with Raghuraj from 10.3.2007 till 21.3.2007. She was moving around with Raghudas in Patiala House Courts when the police apprehended the two.

7. The age of Raghuraj is 20 years. The age of the prosecutrix is around 16 years. The age of the petitioner is 22 years. The age of the husband of the petitioner is 24 years.

8. Petitioner and her husband being friends of Raghudas is a probability. They reside in the same colony. The two having extended a helping hand to Raghudas and Kumari P. to elope cannot be ruled out.

9. Evidence points to probable consent of the prosecutrix, Kumari P.

10. Of course, as vehemently urged by the learned counsel for the State, consent of Kumari P. is irrelevant as she is a minor.

11. May be true, but viz-a-viz the petitioner, what is relevant is that possibility of the petitioner facilitating two love birds in the union and acting bonafide is a possibility which cannot be ruled out.

12. Noting the young age of the petitioner and the fact that she has a minor child aged approx. 3 years to be looked after and the fact that even her husband being a co-accused is in judicial custody, I am of the opinion that case is made out to release the petitioner on bail pending trial.

13. Petition stands disposed of directing the learned Trial Judge to release the petitioner on bail in the afore-noted FIR on her furnishing a personal bond in the sum of Rs.15,000/- with one surety in the like amount to the satisfaction of the learned Trial Judge.

14. Copy of the order be given dasti.

September 27, 2007
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PRADEEP NANDRAJOG, J.