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% 27.10.2010

Present: Mr. O.N. Sharma, Adv. for the petitioner.
Mr. Manoj Ohri, APP for the State.

+B.A.No.1632/2010

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Prosecutrix was found missing by her father, therefore, he logged a complaint with the police, pursuant whereof, FIR under Section 363 IPC was recorded. He stated in the FIR that his daughter was aged about 14 years and was missing since 25.03.2009.

Prosecutrix and petitioner arrived in the police station of their own on 28.03.2009 i.e. after three days and petitioner was arrested. Statement of prosecutrix under Section 164 Cr.P.C. was recorded wherein she has given her age about 17 years 9 months. Before the Magistrate she disclosed her date of birth as 08.07.1991. In her statement u/s 164 Cr.P.C. she stated that her step-mother used to maltreat her, consequently, she accompanied the petitioner on her own free will on 25.03.2009 and stayed with him. She

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was in love with the petitioner.

However, while deposing in the court she has stated that she was taken by the petitioner with him against her wishes.

✓ Learned APP submits that as per the school record date of birth of prosecutrix is 12.07.1995. The age of prosecutrix was also got determined through radiology which was found between 14 ½ years and 15 ½ years. According to him prosecutrix was about 14 years old as on the date of incident.

f Keeping in mind the totality of the circumstances as also the fact that the prosecutrix had reached the age, in as much as, no conclusive material indicating exact date of birth of the prosecutrix could be collected; as also keeping in mind her statement under section 164 Cr.P.C., I admit the petitioner to bail, who is in incarceration for about 1½ years, on his furnishing personal bond in the sum ₹10,000/- with one surety in like amount to the satisfaction of trial court.

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Petition is disposed of accordingly.



A.K. PATHAK, J.

October 27, 2010
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