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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1533/2016**

AZIM

..... Petitioner

Represented by: **Mr. Biswajeet Swain,**
Advocate.

versus

STATE

..... Respondent

Represented by: **Ms. Rajni Gupta, APP for the**
State with SI Sandeep Kumar,
PS Mehrauli.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

09.09.2016

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1. By the present petition the petitioner seeks bail in case FIR No.1333/2016 under Sections 363/376 IPC registered at PS Mehrauli, Delhi.
2. Learned counsel for the petitioner contends that a missing report was lodged when the prosecutrix who was stated to be 17 years of age, left her house around 5.00 AM on 14th June, 2016 without telling her parents. Statement of one of her relatives Mobina was also recorded who stated that the prosecutrix came to her house on 14th June, 2016 at around 7.00 PM and went away in the morning at around 7.00 AM on 15th June, 2016 stating that she would meet her friend and go to her house. Later the prosecutrix was found near Golcha Cinema by a lady staff and the sister of the victim Mobina on 15th June, 2016 at around 4.30 PM.
3. No medical examination of the prosecutrix was done however, she got

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recorded her statement that the petitioner committed rape on her on the pretext of marriage and now he was refusing to marry her. The statement of the prosecutrix was also recorded under Section 164 Cr.P.C. wherein she reiterated the allegation that she wanted to marry the petitioner however, the petitioner was not ready to marry her and he committed the offence of rape.

4. During the course of investigation it was found out that the date of birth of the prosecutrix was 1st April, 1998, that is, on the date of the alleged incident the prosecutrix was above 18 years of age.

5. Along with the present petition the petitioner has placed on record continuous messages of the prosecutrix from 12th June, 2016 till 15th June, 2016 at 3.09 PM which show that the prosecutrix was repeatedly requesting the petitioner to meet her and to talk to her. From these SMSs it is also clear that the two of them have not been able to meet from 12th June, 2016 till 15th June, 2016 at 3.09 PM.

6. Despite the petitioner having been arrested on the same day, that is, 15th June, 2016 and the charge sheet required to be filed within 90 days till date, no investigation has been carried out by the Investigating Agency on these SMSs which would have also shown the location of the petitioner. Further the complainant has also not been confronted with this material.

7. Considering the fact that the petitioner is no more required for custodial interrogation, further as per the investigation the prosecutrix was a major and prima facie the messages reveal that the petitioner did not meet the prosecutrix from 12th to 15th June, 2016, I deem it fit to grant bail to the petitioner. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the

like amount, subject to the satisfaction of the learned Trial Court, further subject to the condition that the petitioner will not leave the country without prior permission of the court concerned.

8. Petition is disposed of.
9. Order dasti.
10. Copy of the order be sent to the DCP and Joint CP concerned who will look into the matter.

MUKTA GUPTA, J.

SEPTEMBER 09, 2016
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