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

+ W.P.(CRL) 2607/2018

ANUPAMA KUMARI

..... Petitioner

Represented by: Mr.Arunabh Banerjee,
Advocate

versus

STATE OF NCT DELHI & ANR.

..... Respondents

Represented by: Ms.Richa Kapoor, ASC for the
State with Ms.Amita Sachdeva,
Advocate
SI Anand Parkash and
W/Ct.Rinku, PS New Friends
Colony

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

14.09.2018

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1. By this petition the petitioner seeks writ of mandamus to the respondent to set her free and also production before this Court. The petitioner has been produced from Children Home Nirmal Chhaya today.

2. The controversy in the present petition is whether the petitioner has attained the age of majority or not. As per the available record of the school first attended by the petitioner, she was admitted on the declaration of her father vide Sl.No.203 on 23rd May, 2008 wherein her date of birth has been mentioned as 6th October, 2000 in Government Middle School Siswa Kharar, District East Champaran, Bihar. The petitioner was thereafter

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admitted in a school at Rohtak Road, Delhi where it is claimed that her date of birth was mentioned as 6th July, 2000. In the subsequent admission of the petitioner at High School in village Siswa, District East Champaran, Bihar, the petitioner took admission on 30th April, 2014 in 9th standard where her date of birth was mentioned as 6th October, 2000. It is thus apparent that in the school first attended, date of birth of the petitioner is 6th October, 2000 and in terms of Rule 12(3) of the Juvenile Justice (Care & Protection of Children) Act, 2015 this age has to be accepted and no ossification test of the petitioner is required to be conducted.

3. FIR No.287/2016 under Sections 363/366/376 IPC, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 9 of the Prohibition of Child Marriage (Amendment) Act, 2016 was registered at PS New Friends Colony on the complaint of father of the petitioner wherein Sriket Kumar to whom the petitioner admittedly married has been arrested and is in custody. Case of the prosecution is that Sriket Kumar was earlier married and without seeking divorce from his first wife, he married the petitioner who was a minor and thus committed various offences.

4. Father of the petitioner had filed a petition for habeas corpus being WP(Crl.)No.2423/2017 before this Court wherein due to the petitioner being a minor, directions were issued for the petitioner to be sent to Prayas Shelter Home from where she was transferred to Nirmal Chhaya.

5. The petitioner has been produced in Court. She is aware of the fact that her husband is earlier married. The petitioner is adamant that she does not want to join the company of her parents and till her husband is released, she would stay along with her child with her parents-in-law, who are staying

in East Champaran, Bihar.

6. Since date of birth of the petitioner as per the school first attended is 6th October, 2000, thus the petitioner would attain the age of majority on 6th October, 2018. Thus, the petitioner cannot be released at present.

7. However, Superintendent, Nirmal Chhaya is directed to release the petitioner on 6th October, 2018 whereafter she would be at liberty to live wherever she so desires with her minor child including with her parents-in-law at their village Badharwa Mahanand, East Champaran, Bihar.

8. Petition is disposed of.

9. Order dasti under the signatures of Court Master.

MUKTA GUPTA, J.

SEPTEMBER 14, 2018

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