

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40058 of 2016

Arising Out of PS.Case No. -196 Year- 2016 Thana -BARACHATTI District- GAYA

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1. Bipin Kumar Son of Bechan Prasad @ Bechan Mahto Resident of village
- Tiwarichak, P.S. Barachatti, District Gaya at Present resident of village -
Bharui, P.S. Barachatti, District Gaya

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Opposite Party/s : Mr. Sri Satyendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 19-09-2016

Heard learned counsel for the petitioner as well as

learned APP for the State.

Informant who happens to be father of victim, Riddhi
Kumari @ Nickkey Kumari and further disclosed her age to be 14
years, a student of Class-VIII had alleged that petitioner had
kidnapped the victim.

It has been submitted on behalf of the petitioner that the
victim was subject to medical examination and her age has been
estimated in between 17-18 years. In the aforesaid background,
victim happens to be major. Her statement under Section 164
Cr.P.C. exonerated the petitioner as she has volunteered herself,
accompanied the petitioner, married with him and so there was no
kidnapping. Therefore, learned counsel for the petitioner submits
that petitioner should be released on bail.

Learned APP opposed the prayer for bail.

Inspite of direction having been rendered by the

Hon'ble Apex Court *in Jernail Singh v. Haryana* as reported in *2013 Cr.L.J 3976* and further followed in the case of *Mahadeo v. State of Maharashtra* as reported in *(2013) 14 SCC 637* whereunder it has been directed that the age of the victim should be ascertained in same way that of juvenile in accordance with Rule 12 of the Juvenile Justice Rules, victims are being frequently subject to Medical Board for ascertainment of her age and the aforesaid process is being deprecated.

The learned lower court should take notice thereof.

For the present, prayer of the petitioner is rejected.

The learned lower court is directed that in case, prayer is made on behalf of victim for ascertainment of her age, then will proceed in terms of direction having been given by the Hon'ble Apex Court and in case, the victim is found major, then in that event, will itself release the petitioner on bail, contrary to it, will pass an appropriate order in accordance with law.

(Aditya Kumar Trivedi, J)

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