

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1326 of 2016

Arising Out of PS.Case No. -189 Year- 2016 Thana -RAMNAGAR District-
WESTCHAMPARAN(BETTIAH)

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GOVIND PATEL SON OF LATE DUKHI PATEL RESIDENT OF
VILLAGE- BELASPUR, P.S.- RAMNAGAR, DISTRICT- WEST
CHAMPARAN.

.... APPELLANT/S

VERSUS

THE STATE OF BIHAR

.... RESPONDENT/S

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Appearance:

For the Appellant/s : Mr. Bimlesh Kumar Pandey, Adv.

For the Respondent/s : Mr. Sri Sadanand Paswan, SPP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 09-03-2017 Heard learned counsel for the appellant as well as
learned Special Public Prosecutor.

The present prosecution relates with kidnapping of a
minor girl Anibha Kumari by the appellant.

It has been submitted on behalf of appellant that the
victim in her statement under Section 161 as well as under Section
164 Cr.P.C. had stated that she on her own volunteered to
accompany with the appellant and further, got involved under
nuptial knot and since thereafter, consummated the marriage.
Therefore, instant prosecution is not permissible. Apart from this,
it has also been submitted that appellant happens to be under
custody since 21.08.2016.

The learned Special Public Prosecutor opposed the



prayer.

In spite of direction having given by the Hon'ble Apex Court, age of the victim is being ascertained on the basis of the ossification report, counting of teeth and so, the same should be cared of by the prosecution and for that, may be a reference of Jarnail Singh v. State of Haryana reported in 2013 Cr.L.J. 3976 as well as other subsequent judgments. A copy of the order should be served upon learned Advocate General so that it should be circulated amongst the official concerned to prevalent such kind of activity henceforth.

At an earlier occasion, vide order dated 21.08.2017 the learned lower court was directed to ascertain the age of the victim in light of the principle laid down by the Hon'ble Apex Court in a case as referred above whereupon, her age has been identified as thirteen years eight months on the alleged date of occurrence.

Being a minor, she was always to be under guardianship and further, carrying such status she is not to be identified to have her own access. Consequent thereupon, volunteering herself under nuptial knot will not give a lifeline to the appellant. Consequent thereupon, prayer for bail at the present moment is rejected.



However, it is made clear that after examination of the alleged victim, the learned lower court will released the appellant on bail to its own satisfaction.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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