

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.343 of 2017

Arising Out of PS.Case No. -63 Year- 2016 Thana -KHAJALI District- MADHUBANI

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Vipin Kumar Yadav @ Vipin Yadav, son of Rram Lagan Yadav, resident of
Village- Mahua Ekdara, P.S.- Khajauli, District- Madhubani.

.... Appellant/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Sanjay Kumar Singh

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

7 23-06-2017

Heard learned counsel for the appellant as well as learned
Additional Public Prosecutor.

Learned counsel for the appellant has submitted that as per
medical report, the victim is major and so, considering her conduct it would
be inferred that she was a consenting party whereupon, no case is made out.
Subsequently thereof, it has also been submitted that under pressure of the
guardian she had changed her statement during course of 164 Cr.P.C, which
could not be appreciated as found completely demolished from her conduct.

At the other end, the learned Additional Public Prosecutor
opposed the prayer.

The Hon'ble Apex Court in the case of *Jarnail Singh vs. State
of Haryana* reported in *2013 Cr.L.J 3976* as well as in *State of Madhya
Pradesh vs. Anoop Singh* reported in *(2015) 7 SCC 773* had issued direction
with regard to ascertainment of age of the victim in the same manner as,
juvenile in conflict of law and lastly, in case of absence of relevant
documents, the medical evidence could be considered. Accordingly, learned
lower court is directed to trace out the status of the victim and in case, victim
is found major then in that event, will release the petitioner on bail to his own
satisfaction.



With the aforesaid observation, instant petition is disposed of.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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