

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.327 of 2019**

Arising Out of PS. Case No.-38 Year-2017 Thana- MAHILA P.S. District- Madhubani

Durga Mandal @ Durganand @ Durganand Mandal s/o Yugeshwar Mandal @
Jugeshwar Mandal Resident of village-Laxipur, P.s.-Laukahi, dist-Madhubani

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manish Kumar No 13, Adv.
For the Respondent/s : Mr.Usha Kumari 1, S.P.P.

**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER**

4 25-03-2019 Heard learned counsel for the appellant as well as
learned Special Public Prosecutor.

It happens to be a case of gang rape.

It has been submitted at the end of learned counsel for the appellant that the appellant is a juvenile. Though, there happens to be presence of his name but without any specific allegation. During course of statement under Section 164 Cr.P.C. the same situation prevails. That being so, considering the allegation in consonance with the period of detention, appellant be released.

Learned Special Public Prosecutor opposed the prayer and submitted that considering the nature of allegation in consonance with his mental capability, his case has been transferred to the Children Court. Furthermore, it has also been



submitted that presence of an accused at the spot during course of commission of gang rape makes him liable to the same treatment irrespective of the fact that no specific allegation has been attributed against him.

Considering the rival submission along with materials available on record, prayer for bail is rejected.

Consequent thereupon, appeal is dismissed. However, the learned lower court is directed to proceed with the trial expeditiously.

(Aditya Kumar Trivedi, J)

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