

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26178 of 2018

Arising Out of PS.Case No. -47 Year- 2018 Thana -MOTIHARI TOWN District-
EASTCHAMPARAN(MOTIHARI)

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Raju Kushwaha @ Raju Kushwah, son of Satya Narayan Prasad @
Satyanarayan Mahto, Resident of Village- Siswa Ajgari, P.S.- Banjariya,
District- East Champaran.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr. Panchanand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH
ORAL ORDER

2 03-05-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection with
Motihari Town P.S. Case No.47 of 2018 registered under Section
354A of the Indian Penal Code and Section 8 of the Protection of
Children from Sexual Offences Act.

It is submitted by the learned counsel for the petitioner
that no offence as alleged in the first information report ever took
place. The doctor who examined the victim also failed to notice
any sign of physical assault on the private part of the victim. He
submitted that the petitioner, being a young boy aged about twenty
five years of clean antecedent, has been implicated in this case out



of animosity.

On the other hand, learned counsel for the State submitted that from perusal of the first information report itself it would appear that the petitioner had committed rape upon a minor girl aged about five years. He submitted that erroneously the police have registered a case under Section 354A of the Indian Penal Code whereas the ingredients of Clause (b) of Section 375 of the Indian Penal Code, which defines the offence of rape are clearly attracted.

Considering the gravity of the offence and serious nature of allegation made in the first information report against the petitioner, I am not inclined to grant him pre-arrest bail.

Accordingly, the application for grant of pre-arrest bail is rejected.

(Ashwani Kumar Singh, J)

Md.S./-

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