

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59880 of 2018

Arising Out of PS.Case No. -45 Year- 2018 Thana -MAHILA P.S. District- SIWAN

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Suraj Kumar, son of Shri Meghu Manjhi, resident of village- Purandarpur,
P.S.- Gorea, Kothi, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prakash Chandra Jha, Advocate

For the Opposite Party/s : Smt. Veena Kumari Jaiswal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

2/ 08-10-2018

Heard learned counsel for the petitioner and learned

APP for the State.

Petitioner seeks bail in **Siwan Mahila P.S. Case No.45 of 2018** instituted for the offence under Section(s) 376-D Indian Penal Code.

Counsel for the petitioner submits that occurrence has taken place on 16.06.2018, but First Information Report has been lodged on 21.06.2018. There is no explanation of delay in lodging the First Information Report. There is no mention in the First Information Report about the place of occurrence.

The informant has alleged in the written report that while she was returning from the house of her friend, Aarti Kumari, this petitioner along with three other persons committed



gang rape with her.

Counsel for the petitioner submits that Aarti Kumari has filed an Affidavit in the Court, which is annexed as Annexure-3, stating that victim had never come to her house on 16.06.2018. It further appears that victim was examined on 21.06.2018 and the doctor has not found any evidence of recent sexual activity. Age of the victim has been opined to be 19-20 years. Doctor has found no spermatozoa either dead or alive. No mark of injury was present on any part of the body. It is also submitted that petitioner is a handicapped person. He has annexed the certificate issued from the office of Civil Surgeon, Siwan, as Annexure-4, wherein, doctor has found the petitioner 45% handicapped.

Victim has given statement under Section 164 Cr.P.C., wherein, she has stated date of occurrence as 16.06.2018 and stated that while she was returning from the house of Aarti Kumari then in the way this petitioner and three other boys had committed rape with her.

In this manner, no specific place of occurrence has been mentioned by the informant in her statement. Medical evidence does not support the allegation made in the written report and statement of victim given under Section 164 Cr.P.C.



Petitioner is in custody since 24.06.2018.

In the facts and circumstances of the case, prayer of the petitioner for grant of bail is allowed. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of the **Sub-Divisional Judicial Magistrate, Siwan**, in connection with **Siwan Mahila P.S. Case No.45 of 2018**, subject to the condition that both the bailors shall be close relative of the petitioner.

(Sanjay Priya, J)

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