

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52817 of 2018

Arising Out of PS. Case No.-189 Year-2017 Thana- MAHISHI District- Saharsa

Md. Manzoor @ Md. Manzoor Alam son of Md. Aslam Abbas Ali R/o
Mohalla - Rajanpur, P.S. Mahisi, Dist - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. S. Jamil Akhtar
For the Opposite Party/s : Mr. Jagdhar Prasad

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

3 06-10-2018 Heard learned counsel for the petitioner and
learned APP for the State.

The petitioner seeks bail in connection with
Mahesi P.S. Case No. 189 of 2017 registered for the offence
punishable under Section 376 of the Indian Penal Code.

Petitioner is said to have committed rape against
the minor daughter of informant in the night intruding into her
house in her absence.

It is submitted by learned counsel for the
petitioner that no such occurrence as alleged ever took place.
The petitioner has no concern with the aforesaid occurrence. He
has been falsely implicated in this case. After investigation of
the case, I.O. submitted final form, but the re-investigation of



the case was again started with the permission of the court. Though, the victim in her statement recorded under Section 164 Cr.P.C. has named the petitioner in the occurrence of rape against her, but in paragraph 9 of her statement, she has stated that she could not identify the petitioner in the night rather her aunt identified the petitioner in the course of escaping. The aforesaid statement of the victim create serious doubt about the prosecution case. The petitioner has been languishing in custody since 22.05.2018.

On the other hand, learned counsel for the informant and learned APP for the State vehemently opposed the bail prayer of the petitioner and submitted that victim in her statement recorded under Section 161 Cr.P.C., and also under Section 164 Cr.P.C. during the course of re-investigation of the case has specifically stated about committing of rape against her in the night intruding into her house by the petitioner and in the night itself, she had informed the occurrence to her parents. Hence, the aforesaid statement of victim recorded under Section 164 Cr.P.C. has no adverse impact on the merit of the case.

In the facts and circumstances of the case, I am not inclined to enlarge the petitioner on bail. Accordingly, his prayer is rejected.



However, learned court below is directed to conclude the trial as expeditiously as possible preferably within nine months from the date of receipt/production of a copy of this order and S.P. Saharsa is directed to ensure production of the witnesses in the case on each and every date fixed without fail.

Let a copy of this order be communicated to S.P. Saharsa by fax for needful.

(Prakash Chandra Jaiswal, J)

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