

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19862 of 2022

Arising Out of PS. Case No.-167 Year-2021 Thana- LAURIA District- West Champaran

Hero Ansari @ Hero Miya @ Karmullah Ansari Son of Late Ali Mian
Resident of Village - Prakash Nagar Ward no.12, Narkatiaganj, P.s.- Sikarpur,
Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
	:	Mr. Manaur Alam, Advocate
	:	Mr. Prashant Kumar, Advocate
For the State	:	Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 29-08-2022 Heard learned senior counsel appearing on behalf of
the petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Lauriya
P.S. Case No. 167 of 2021 registered for the offence under
Sections 302, 328 and 34 of Indian Penal Code and Sections
30(a), 33 and 37(b) of the Bihar Prohibition and Excise Act,
2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 20.09.2021.

The allegation against the petitioner is to involve in



illegal trading of spurious liquor, whereafter consumption, the maternal uncle of the informant died.

Learned senior counsel appearing on behalf of the petitioner submitted that the present F.I.R. is being lodged after eight days of the occurrence without any just explanation. It is submitted that from bare perusal of the F.I.R., no case u/s 302 of the I.P.C. is made out, particularly, under the circumstances, where specific provision u/s 34(b)(i) has been made out to dealt with such offences. It is further submitted that there is no recovery of illicit liquor from the physical possession of the petitioner and he has been implicated in this case only due to his criminal antecedents, as he is involved in six more criminal cases of similar nature. It is also submitted that the allegation is very much general and omnibus. Learned senior counsel, while travelling over the argument, submitted that in want of post mortem report, it cannot, even, be said that death of maternal uncle of the informant was caused due to consumption of spurious liquor, as alleged. It is submitted that nothing incriminating surfaced/recovered during the course of investigation, which may connect the petitioner, *prima facie*, with the present set of occurrence. While concluding the argument, it is submitted that investigation in this case is



complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer for bail, fairly conceded that post mortem was not conducted in this matter and the allegation is to cause death after consumption of spurious liquor.

In view of the facts and circumstances, as mentioned above, as the cause of death is consumption of liquor, which appears to be doubtful in want of post mortem report or chemical report coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Lauriya P.S. Case No. 167 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Bettiah, West Champaran/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail



bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioner, duly supported by the documents.

(iii) That one of the bailors shall be Modina Khatun, who is the wife of petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-

U		T	
---	--	---	--

