

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20006 of 2022

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

Lalu Miyan Son of Late Dulee Miyan @ Bhopat Miyan Resident of Village -
Dumra Devraj, P.s.- Lauriya, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 29-08-2022 Heard learned 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.

At the outset, learned counsel for the petitioner
submitted that in paragraph no.1 of the bail petition,
inadvertently, some of the sections have been wrongly omitted
and further he submitted that a supplementary affidavit has also
been filed to this effect.

Learned counsel for the petitioner is permitted to
make necessary corrections during the course of the date itself.

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,



2016.

The accused/petitioner is not named in the F.I.R. and is in custody since 14.08.2021.

The allegation against the petitioner is to involve in illegal trading of spurious liquor, whereafter consumption, the maternal uncle of the informant died.

Learned 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. It is submitted that petitioner has been remanded in this case from Lauriya P.S. Case No. 162 of 2021. It is also submitted that the allegation is very much general and omnibus. Learned 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, West Champaran at Bettiah/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 Md. Daud Ali, who is the son of petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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