

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.40726 of 2021**

Arising Out of PS. Case No.-128 Year-2021 Thana- LAKHISARAI District- Lakhisarai

Md. Kesar @ Kaisar, S/O Mohammad Nihal @ Mohammad Nihal Mallik,
R/O -Village-Alapur, P.S-Korma, District-Sheikhpura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Onkar Nath, Advocate

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 14-02-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard Learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned Additional Public Prosecutor for the State.

Petitioner, in the present case, is seeking regular bail in connection with Lakhisarai P.S. Case No. 128 of 2021 (G.R. No. 301/21) registered for the offence under Sections 25(1-b)a, 26 and 35 of the Arms Act. He has got one criminal antecedent but as per statements made in paragraph '8' he is on bail in the said case.

Learned counsel for the petitioner submits that on secret information police intercepted the motorcycle by which



the miscreants had allegedly come to deliver the fire-arm. This petitioner was identified as the person who had delivered the fire-arm. As per seizure list, however from his possession one empty magazine was found attached with the waist of the petitioner. From the co-accused Md. Sultan, one country made pistol with one magazine was recovered.

Learned counsel submits that it is a case of false implication during the ongoing panchayat election. The seizure list witnesses are only members of the police party, though the seizure is said to have been made at Bidyapeeth chowk near a doctor's clinic, but no independent witness is there to the seizure list and it is not stated that no independent witness was available, moreover the petitioner has remained in custody in connection with this case since 25.02.2021, investigation against him is complete and is ready to abide by such terms and conditions which may be imposed upon him for purpose of grant of bail.

Learned A.P.P. for the State has though opposed the prayer for bail of the petitioner, but considering the entire facts and circumstances of the case and upon finding that the recovery of one empty magazine and petitioner has remained in custody in connection with this case for about one year, in the



only case against him he is on bail, investigation against him is complete and he is ready to abide by the terms and conditions of bail, this court directs release of the petitioner above-named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai in connection with Lakhisarai P.S. Case No. 128 of 2021, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

