

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 47596 of 2021**

Arising Out of PS. Case No.-112 Year-2021 Thana- LAHERIYASARAI District- Darbhanga

MD KAIF S/o MD LAL @ LAL MOHAMMAD R/o VILLAGE-
MIRZAPUR, PS-TOWN, DISTRICT-DARBHANGA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr D K Sinha, Sr Advocate with M/s Girish Chandra Jha, Ashish, Advocates
For the Opposite Party/s	:	Mr Satyadeo Singh Yadav, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

3 10-03-2022 Heard learned senior counsel for the petitioner and learned Additional Public Prosecutor (for brevity, *APP*) appearing for the State of Bihar.

The petitioner seeks bail in Laheriasarai Police Station (for brevity, *PS*) Case No 112 of 2021 instituted for the offence punishable under Sections 399, 402 of Indian Penal Code and Sections 25 (1-b) a, 26, 27, 35 of Arms Act.

The prosecution case is that the police party (informant) has got information regarding assembly of some anti social elements for commission of dacoity. On arriving at the place, the miscreants fled away whereas it is alleged that the petitioner has been arrested along with a pistol and one live cartridge.



Learned senior counsel submits that in five out of eight cases, pending against him, as per disclosure made in paragraph 3 of the petition, petitioner is already on bail. It is also submitted that implication in this case is a sequel to the implication of the petitioner in other cases, based on extraneous considerations. He denies and disputes the recovery as the same has been done without following the mandatory procedure and submits that the allegation is of planning commission of dacoity, which never took place even as per prosecution case. He is stated to be in custody since 04.03.2021.

The learned APP has opposed the prayer for bail. It is submitted that the petitioner has antecedents and some of them are of grievous in nature.

Considering the rival submissions as also the merits of the instant case, more so, in view of the fact that petitioner has been granted bail in five out of eight cases and there is no allegation of tampering the evidence, the allegation is of commission of an offence, which never took place, as per prosecution case, and merely for the alleged recovery of one pistol and one cartridge, petitioner has remained in custody for one year, this Court is inclined to allow the prayer for bail.

Let the petitioner, above named, be released on bail



on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Darbhanga in Laheriasarai PS Case No 112 of 2021 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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