

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38048 of 2022

Arising Out of PS. Case No.-102 Year-2021 Thana- CHORAUT District- Sitamarhi

Lakshmi Mukhiya Son Of Suresh Mukhiya R/O Village- Choraut, Ward No.-
1, P.S.- Choraut, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar, Advocate.

For the Opposite Party/s : Mr. Choubey Jawahar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-09-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Santosh Kumar, learned counsel for the petitioner as well as Mr. Choubey Jawahar, learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Choraut P. S. Case No. 102 of 2021 registered for the offences punishable under Section 414 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act, 2018.

As per the prosecution case, it is alleged that the police, in course of vehicle checking, intercepted two persons,



who were coming on a bicycle and a motorcycle and on search, total 105 litres Nepali Saufi wine was recovered.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession. It is next submitted that from the F.I.R., it is evident that the name of the petitioner has been disclosed by co-accused Uttim Mukhiya and save and except the disclosure made by co-accused persons, there is no material suggesting the complicity of the petitioner. It is also submitted that the motorcycle seized by the police does not belong to the petitioner. It is last submitted that the petitioner having fair antecedent, is in custody since 02.06.2022 and the investigation of the crime is already completed.

On the other hand, learned APP for the State opposes the bail application.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his conscious or constructive possession and save and except the fact that the name of the petitioner has been disclosed by the co-accused persons, there is



no other material, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge Exclusive Special Excise Court-II, Sitamarhi in connection with Choraut P. S. Case No. 102 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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