

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21837 of 2022**

Arising Out of PS. Case No.-710 Year-2021 Thana- LAKHISARAI District- Lakhisarai

MD.EJAJ ALAM @ BHOLU @ BHOLA Son of Md. Nijam Resident of
Village - Dilawarpur Bara, P.S.- Kotwali, Distt.- Munger.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjiv Kumar Singh
For the Opposite Party/s : Mr.Rajiv Nayan

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

4 12-01-2023 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with
Lakhisarai (Kabaiya) P.S. Case No. 710/2021 registered for the
offences punishable under Sections 25(1-A), 25(1-AA), 25(1-
AC), 26(ii) and 35 of the Arms Act.

As per prosecution case, 18 set of semi-manufactured
pistols were recovered from a Tata Magic vehicle in question
and the petitioner is alleged to be driver of the said vehicle.

Learned counsel for the petitioner submits that
petitioner is innocent and has falsely been implicated in this
case. The petitioner is languishing in custody since 22.10.2021



and bears criminal antecedent of one case in which he is on bail. No incriminating articles has been recovered from the conscious possession of the petitioner. He further submits that as per FIR, the alleged vehicle was a commercial vehicle therefore, the petitioner cannot be alleged responsible for recovery of a plastic bag containing 18 semi-manufactured pistols. Seizure list has not been prepared as per law and there is no complinace of Section 100 Cr.P.C. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Co-accused, Md. Jahir has been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No.19100/2022 and the case of present petitioner stands more or less on similar footing.

The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody which is more than one year, co-accused has already been granted bail, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and argument advanced on behalf of both sides and also taking into consideration the material available on record, 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 Chief Judicial Magistrate, Lakhisarai in connection with Lakhisarai (Kabaiya) P.S. Case No. 710/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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