

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82219 of 2023

Arising Out of PS. Case No.-62 Year-2023 Thana- MADHWAPUR District- Madhubani

LALU RAI @ LALBABU RAI SON OF RAMJIVAN RAI R/O VILLAGE-
MURULIYA, P.S.- CHARAETH, DIST.- SITAMARHI (BIHAR)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sarfraz Ahmad

For the Opposite Party/s : Mr.Khurshid Anwar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 05-01-2024 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with G.R.
No. 1007/2023 arising out of Madhwapur P.S. Case No. 62/2023
registered for the offences punishable under Sections 272, 273,
414, 34 of the Indian Penal Code and Section 25(1-b)a, 26, 35
of the Arms Act and Section 30(a) of Bihar Prohibition and
Excise Act.

As per prosecution case, co-accused Sunil Kumar
was apprehended by the security forces along with a motorcycle
and 107.77 litre illicit liquor, one country made pistol and one
live cartridge were recovered from his possession. It is further
alleged that co-accused, Sunil Kumar disclosed the name of the
petitioner(Lalu Rai) as the owner of the seized liquor, pistol and
motorcycle in question.



Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence as alleged in the FIR and he has falsely been implicated in this case. It is further submitted that petitioner was not apprehended on spot. Basically no incriminating has been recovered from conscious possession of the petitioner. In the light of the facts and circumstances of the case, no case is made out under Arms Act and Bihar Prohibition and Excise Act against the petitioner. Except disclosure of co-accused Sunil Kumar, there is nothing on record to connect the present petitioner with the alleged occurrence. Seizure list has not been made as per law. Learned counsel orally submits that by mistake he has not mentioned the period of custody of petitioner in the bail petition, but from perusal of impugned order, it is evident that petitioner is in custody since 26.09.2023. Learned counsel has further orally submitted that charge sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence. Petitioner bears no criminal antecedent.

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

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of the



petitioner, petitioner is not apprehended on spot, 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 bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge-2nd Cum Special Judge Excise Act, Madhubani in connection with G.R. No. 1007/2023 arising out of Madhwapur P.S. Case No. 62/2023 , subject to the 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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