

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20189 of 2020**

Arising Out of PS. Case No.-778 Year-2019 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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Pankaj Kumar Son of Bishwanath Sah Resident of Village - Dumri, P.S.-
Sadar, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh
For the Opposite Party/s : Mr.Anil Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-07-2020 The matter has been taken up through virtual

Court proceeding.

Since the physical court proceeding is non-

functional due to the present pandemic COVID-19, the

matter is listed with defects.

Learned counsel for the petitioner undertakes

to remove the defects within three weeks of the

resumption of the physical Court proceedings.

In case of non-removal of the defects within

undertaken period, the office shall place the matter



before the bench.

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

The petitioner is apprehending his arrest in a case registered for the offence punishable under Sections 272, 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise Act, 2016, as amended by Amendment Act 8 of 2018 (hereinafter referred to as the Act).

The prosecution case as per the written report of Lutawan Ram S.I., submitted to the S.H.O, Muzaffarpur Sadar Police Station is to the effect that on 09.11.2019, during night petrolling, an information was received that Pankaj Kumar, the petitioner has concealed illicit liquor in his cattle shade. Consequently, raid was laid and total 73.890 litres of liquor was recovered concealed under a fire-wood.

It is submitted by learned counsel for the petitioner that recovery has been made from a cattle



shed which is an open area which comes under the possession of joint family house, hence the same cannot be treated from the conscious physical possession of the petitioner and petitioner is not having any criminal antecedent. Statement to that effect has been made in para 3 of the petition.

Learned A.P.P. submits that recovery has been made from the cattle shade of the petitioner.

Considering the fact that recovery has been made from an open area and the petitioner is not having any criminal antecedent, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of six weeks, be released on provisional anticipatory bail for a period of three months on furnishing one surety to the satisfaction of learned Special Judge, Excise, Muzaffarpur in connection with Sadar P.S. Case No. 778 of 2019, subject to the conditions as laid down under Section 438(2) Cr.P.C.



However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-Mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs. 10,000/-(ten thousands) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Muzaffarpur in connection with Sadar P.S. Case No. 778 of 2019 including one surety given at the time of provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next three months.



Accordingly the present application stands
disposed of.

(Dinesh Kumar Singh, J)

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