

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76282 of 2019**

Arising Out of PS. Case No.-120 Year-2019 Thana- FULKAHA District- Araria

MD. NIZAM @ NIZAM Son of Md. Basir Resident of Village - Balua Bazar,
P.S.- Balua Bazar, Distt - Supaul.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh
For the Opposite Party/s : Mr.Parmanand Prasad

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

7 15-06-2020 The matter has been taken up through virtual court proceeding.

Heard learned counsel for the petitioner and the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 30(a) and 45 of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018.

The prosecution case, as per the written report of Inspector, Tanoj Mahana, submitted to the S.H.O., Fulkaha Police Station is to the effect that on 02.08.2019, an information was received that huge quantity of illicit liquor is being smuggled from Nepal to India. Consequently, during vehicle check, a Xylo car was signaled to stop, thereafter, the same managed to escape from the scene, but the local Chaukidar



identified two persons, sitting in the said Xylo car, as co-accused Lalu Kumar Yadav and the petitioner, Md. Nizam. Subsequently, a Bolero vehicle was also intercepted from which, 504 litres of Nepali liquor were recovered, though, the person, sitting in the Bolero vehicle, managed to flee away from the spot.

It is submitted by learned counsel for the petitioner that admittedly, recovery has not been made from the conscious physical possession of the petitioner. The petitioner is not having any concern either with the seized liquor or the vehicles in question, statement to that effect has been made in paragraph nos. 6 and 8 of the petition, which read as follows:-

“6. That the petitioner has no concerned/knowledge about the recovered liquor & vehicle

8. That the petitioner is not owner & driver of the said alleged recovered Bolero vehicle which bearing registration No. BR-06P-8729.”

It is further submitted that the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in one other case.

Learned APP submits that the petitioner managed to escape from the place of seizure and he is named in the FIR.

Considering the fact that the petitioner was not



apprehended from the place of seizure, the petitioner not having concern with any of the seized vehicles, recovery not being made from the conscious physical possession of the petitioner, let the petitioner above named be released on anticipatory bail provisionally for a period of three months in the event of arrest or surrender before the learned Court below within a period of six weeks on furnishing one surety to the satisfaction of the learned Addl. Dist. & Sessions Judge-2nd-cum-Special Judge, Excise, Araria in connection with Fulkaha P.S. Case No. 120 of 2019, Special Case No. 983 of 2019.

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.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned Addl. Dist. & Sessions Judge-2nd-cum-Special Judge, Excise, Araria



in connection with Fulkaha P.S. Case No. 120 of 2019, Special
Case No. 983 of 2019.

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

(Dinesh Kumar Singh, J)

Amrendra/-

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