

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65571 of 2019

Arising Out of PS. Case No.-252 Year-2019 Thana- JOKIHAT District- Araria

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1. MAHZOOB @ MD. MAHZOOB Son of Alim Resident of Village -
Simariya Tola, Bhangia, P.S.- Jokihat, Distt - Araria.
 2. Mojahid Son of Sajjad Resident of Village - Gamhariya, P.S.- Jokihat, Distt -
Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Naushad Uzzoha, Adv.

For the Opposite Party/s : Mr. Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 05-03-2020 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 272, 273, 279, 427, 379, 34 of the I.P.C. and Section 30(a) 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 Ashok Kumar, A.S.I. submitted before the S.H.O., Jokihat Police Station is to the effect on 23.06.2019, during patrolling, information was received that one Nano car has met with an accident whereupon, the informant reached at the spot and found one Nano car in damaged condition and the driver of the vehicle was being caught by the local people. Subsequently, the apprehended driver of the said vehicle was handed over to the police who disclosed his name as Vivek Kumar Singh and further disclosed the name of the persons who escaped from the scene as co-accused, Basant Kumar Chaudhary and the owner of the vehicle co-accused, Tinku Mahaldar. Subsequently, on search being made, 13 cans beer containing, 500 ml each were recovered from the vehicle in question. The name of the petitioners sprang up on the basis of CCTV footage which suggested that the petitioners were taking out the said liquor from the car.

It is submitted by learned counsel for the petitioners that only on the basis of suspicion, the petitioners have been roped in the present case. Moreover, the CCTV footage, on basis of which, the name of the petitioners sprang up in the present case, is a morphed one and the same has not been sent



to any forensic laboratory for its examination and there is no actual recovery from the possession of the petitioners. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP for the State after going through the case diary submits that on the basis of CCTV footage, the petitioners' name sprang up as persons who were seen taking out liquor from the vehicle in question.

Considering the fact that *prima facie* there is no actual recovery from the conscious physical possession of the petitioners, the CCTV footage on basis of which, the name of the petitioners sprang up, has not been sent to any forensic laboratory for its examination, neither they were apprehended from the place of recovery, coupled with statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned A.D.J.-II-cum - Special Judge (Excise), Araria, in connection with Special Case



No.790 of 2019, arising out of Jokihat P.S. Case No.252 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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