

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30510 of 2019

Arising Out of PS. Case No.-246 Year-2019 Thana- ARARIA District- Araria

SUGIYA DEVI Wife of Samod Mandal Resident of Village - Hirdaipur, Ward
No. 05, P.S.- Araria (R.S.), District- Araria

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh
For the State : Mr.J.K.Singh, APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 13-05-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends her arrest for the offences alleged under Sections 147, 148, 149, 341, 323, 324, 307,353 IPC, Sections 30(a), 38, 41(1) of the Bihar Prohibition & Excise Act, 2016 (for short 'the Excise Act') and Section 27 of the Arms Act registered in connection with Araria (R.S.) P.S. Case No. 246 of 2019 corresponding to Special Case No. 478 of 2019.

3. It is submitted that the petitioner has been falsely implicated merely because she happens to be the wife of Samod Mandal who was arrested and six bottles of illegal English wine containing 180 ml. each were recovered from his haystack. From a perusal of the averments in the FIR it is evident that there is no whisper of any offence under the Excise Act against the petitioner.

4. As regards the accusation under the penal provisions and the Arms Act, it is submitted that the thrust of accusation of firing has been made against co-accused Sanjit Chauhan and Manikchand Mandal, whereas the accusations against as many as



9 named and 100 unknown persons including the petitioner are general and omnibus in nature. There is no injury report on record to corroborate the accusation of assault. The petitioner claims clean antecedents.

5. Ordinarily, an anticipatory bail petition in relation to the offence under the Excise Act is not maintainable. However, where, on the basis of the statements in the first information report, the ingredients of the offence alleged against a person are not made out, as observed by a Division Bench of this Court in Cr. Misc. No. 21578 of 2017 (Manish Kumar @ Lokesh Kumar vs. The State of Bihar) and analogous cases, there would be no bar to the grant of anticipatory bail.

6. Learned APP has not pointed out any material in the FIR alleging any offence said to have been committed by the petitioner in order to attract the provisions of the Excise Act, 2016.

7. Be that as it may, having regard to the entirety of the facts and circumstances, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned 2nd Additional Sessions Judge-cum-Special Judge, Araria in connection with Araria (R.S.) P.S. Case No. 246 of 2019 corresponding to Special Case No. 478 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following further conditions:

- i. That one of the bailors shall be a close relative of the petitioner.
- ii. That the petitioner shall not indulge in any similar offence till conclusion of the trial.
- iii. That the petitioner shall co-operate with the



investigation, if not already concluded, and make herself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

iv. The petitioner shall be well represented in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, her bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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