

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32052 of 2019**

Arising Out of PS. Case No.-82 Year-2019 Thana- HILSA District- Nalanda
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RITA DEVI W/o Sujit Kumar Resident of Village - Devi Asthan Bihari Road
Hilsa, P.S.- Hilsa, Dist.- Nalanda.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Ajay Kumar Thakur, Advocate.

For the Opposite Party: Mr. Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 09-08-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends her arrest for the offences alleged under Sections 272, 273, 353/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Hilsa P.S. Case No. 82 of 2019.

3. It is submitted that the petitioner has been falsely implicated and in any event no accusation whatsoever under the Prohibition Act has been made against the petitioner as it is for husband and his brother who are said to have been manufacturing country made liquor. The accusation against the petitioner is of obstructing the arrest of her husband co-accused Sujeet Kumar and after scuffle she managed to flee away which is



highly improbable. The petitioner is a lady and claims clean antecedents.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Prohibition 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 persons 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.

5. Learned APP has not pointed out any material in the F.I.R. alleging any offence to have been committed by the petitioner in order to attract the provisions of the said Prohibition Act.

6. Be that as it may, 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 3rd Additional District and Sessions Judge cum Special Judge Excise, Nalanda at Bihar Sharif in connection with Hilsa P.S. Case No. 82 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 cooperate 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) That the petitioner shall be well represented in Court on each and every date during trial except as and when directed by the learned Court to be physically present, 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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