

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47935 of 2019

Arising Out of PS. Case No.-234 Year-2019 Thana- UDWANTNAGAR District- Bhojpur

FULMATI DEVI @ CHANAMANI DEVI Wife of Late Sonadhari Yadav
Resident of Village-Malthar, Police Station-Udwanthnagar, District-Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 01-08-2019 Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Section 30(a), 37(c) of the Bihar Prohibition and Excise Act, 2016.

It is alleged that from an open area, 8 litres of country made liquor were recovered kept in a jar. The petitioner is alleged to have been seen fleeing away from the place of seizure after throwing the said liquor.

It is submitted by learned counsel for the petitioner that the alleged recovery has been made from an open area, hence, it cannot be treated from the conscious physical possession of the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the said liquor belongs to the



petitioner.

In view of the provision of non-maintainability of anticipatory bail under Section 76(2) of the Act and the ratio laid down by the Full Bench in the case of **Ram Vinay Yadav Vs. State of Bihar** reported in **2019(2) PLJR 1089**, the present anticipatory bail application is not maintainable.

However, in view of the ratio laid down in the case of **Ashok Sahni Vs. State of Bihar** reported in **2017(3) PLJR 632**, since the petitioner being a lady and the meager quantity of recovery made, let the learned Court below consider the prayer for regular bail of the petitioner preferably on the same day, if he surrenders within a period of six weeks in connection with Udawantnagar P.S. Case No. 234 of 2019, pending in the Court of learned 4th Additional District and Sessions Judge, Ara, Bhojpur.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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