

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10565 of 2020**

Arising Out of PS. Case No.-293 Year-2019 Thana- BUXAR MUFFSIL District- Buxar

Geeta Devi @ Beauty Sinha, W/O Late Vijay Lal, Resident of Village -
Mahadah, P.S. - Buxar (Mufassil), District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramakant Yadav, Advocate

For the Opposite Party/s : Smt. Pushpa Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

3 22-06-2020 The matter has been listed today for consideration through video conferencing in view of the nationwide lockdown on account of COVID-19 pandemic.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner is apprehending her arrest in connection with Buxar (M) P.S. Case No.293 of 2019 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The F.I.R. discloses recovery of 7.920 Indian Made



Foreign Liquor (IMFL) from a carton kept below a *Chauki* in the petitioner's house. The petitioner is said to have fled away.

Learned counsel for the petitioner submits that the petitioner is a widow and *Pardanashin* lady aged about 50 years. The seizure list *prima facie* establishes that the recovery is from below the *Chauki*. There is no recovery from the conscious possession of the petitioner and even as per the prosecution case, she was not present at the place of recovery. The mandatory procedure for such search and seizure under Section 100 Cr.P.C. has not been complied nor there is any forensic opinion to establish that the recovered article was illicit liquor. It is submitted that in the circumstances, no case whatsoever would be made out under Section 30(a) of the Bihar Prohibition and Excise Act.

Learned APP for the State has opposed the prayer for bail by submitting that pre-arrest bail would not be maintainable in view of the statutory bar under Section 76(4) of the Bihar Prohibition and Excise Act.

Considering the rival submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019(2) PLJR***



1089(FB), is inclined to accept the submissions advanced by the petitioner's counsel for the limited purpose of grant of pre-arrest bail. The petitioner's prayer for anticipatory bail is allowed.

Accordingly, let the petitioner, above named, in the event of her arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-II-Cum-Special Judge, Excise Act at Buxar, in connection with Buxar (M) P.S. Case No.293 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if she fails to do so on two consecutive dates, her bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

PNM

U		T	
---	--	---	--

