

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39006 of 2020

Arising Out of PS. Case No.-109 Year-2020 Thana- PUNPUN District- Patna

NEHA DEVI WIFE OF RAJU SAW RESIDENT OF VILLAGE - PUNPUN,
POLICE STATION - PUNPUN, DISTRICT – PATNA Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunit Kumar Srivastava

For the Opposite Party/s : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 31-05-2021 The present petition has been taken up for consideration
through the mode of Video Conferencing in view of the prevailing
situation on account of COVID-19 Pandemic.

Heard the learned counsel for the petitioner and Sri Binod Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Punpun PS case no. 109 of 2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

The allegation is regarding the police having apprehended a Scooty, whereupon the co-accused person namely Ranjeet Kumar was apprehended and 60 liters of illicit liquor was recovered. It is further alleged that the said co-accused person Ranjeet Kumar, upon interrogation, disclosed that the aforesaid Scooty is registered in the name of the petitioner and she along



with him, is engaged in illicit business of liquor.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and is having a clean antecedent. The learned counsel for the petitioner has further submitted, by referring to paragraph no. 11 of the present petition that the friend of the son of the petitioner, on the previous day, had borrowed the Scooty in question for the purposes of going to hospital situated at Patna to meet his ailing relative but had not returned back the Scooty and in the meantime, the petitioner came to know that the Scooty along with the co-accused person has been apprehended and illicit liquor has been recovered. It is further submitted that neither the petitioner has been apprehended from the spot nor there are cogent materials on record to suggest the complicity of the petitioner in the alleged crime nor the provisions contained in Section 100 Cr.P.C. has been complied with while preparing the seizure list, hence no case is made out against the petitioner under the provisions of the Bihar Prohibition and Excise Act, 2016.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on



record, this Court finds that neither the illicit liquor has been recovered from the conscious possession of the petitioner nor the petitioner is stated to have been driving the Scooty in question at the time of alleged occurrence, hence this Court finds that *prima facie* no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as consideration of the present bail petition is concerned, thus the bar under Section 76 (2) of the Bihar Prohibition and Excise Act, 2016 shall not be an impediment for grant of anticipatory bail to the petitioner, consequently, I deem it fit and appropriate to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the abovenamed petitioner, in the event of her arrest or surrender before the court below within a period of eight weeks from the date of receipt/ production of a copy of this order, is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna in connection with Punpun PS case no. 109 of 2020 subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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