

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45689 of 2022

Arising Out of PS. Case No.-162 Year-2021 Thana- MUFFASIL District- Aurangabad

Rekha Munda Daughter Of Ram Krishna Mandal R/O Village- Simrahi, P.S.-
Raghopur, Dist.- Supaul, (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Bhushan Das, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 28-11-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

The petitioner is apprehending her arrest in a case
registered for the offences punishable under Sections 30(a) of
Bihar Prohibition and Excise (Amendment) Act, 2018.

Recovery is of 1323 litres of *English* liquor.

Learned counsel for the petitioner submits that the
petitioner has clean antecedent and has falsely been implicated
in the present case. He further submits that the recovery has
been made from the truck in question and not from petitioner's
possession. He further submits that the petitioner is not named



in the F.I.R. and the name of the petitioner has been transpired on the ground that the petitioner is owner of the truck in question. Learned counsel for the petitioner submits that in fact the petitioner has given the truck to one Sajjan Kumar Kedia who is the foodgrains dealer who had hired the truck of the petitioner for transporting foodgrains from Saharsa to Ranchi and the petitioner has no knowledge about the illicit liquor which was recovered from the truck in question and the Amod Yadav is the driver of the truck and Ram Krishna Mandal is the care taker of the truck who loaded the English wine in the truck without giving an information. Therefore, the recovery cannot be attributed to the petitioner. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr. P.C. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioner referring the provision contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that the pre-arrest bail would not be maintainable.

This court is aware of the decision of the **Full Bench** in the case of **Ram Vinay Yadav vs. State of Bihar** reported in **2019(2) P.L.J.R. 1089**. Having regard to the law laid down in the aforesaid judgment and the submission advanced on behalf of the



parties, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submission of counsel for the petitioner.

Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and petitioner is a lady, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order. 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 Court below where the case is pending in connection with Aurangabad Muffasil PS. Case No. 162 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on her absence on two consecutive dates without sufficient reason, her bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any



stage it is found that the petitioner has concealed her criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

Ibrar//-

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

