

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45065 of 2023

Arising Out of PS. Case No.-263 Year-2022 Thana- GUTHANI District- Siwan

Smt. Tulsi Devi @ Tulsi (Female), aged about 73 years, Wife of Shyam Lal
Resident Amhar, Patti Uttar Baliya, Dist.- Baliya Uttar Pradesh 221712.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binoy Kumar Sinha 1, Advocate

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 07-11-2023 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in
connection with Guthani P.S Case No. 263 of 2022 dated
14.10.2022 for the offences punishable u/s 30A of the Bihar
Excise and Amendment Act, 2016.

4. As per the prosecution case, on 14.10.2022 at 4 am
the raiding team of the police seized total 216 liters of 8 PM
Frooty English wine from a swift desire vehicle and total 405
liters of Desi liquor from a Bolero vehicle bearing Registration
No. UP-60X-9468, Engine No. GE4M87378, Chesis No.
MA1PL2GPKF5A70474. The drivers of the said vehicle were



also apprehended on the spot.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that petitioner is an old lady and the owner of the said Bolero vehicle and the petitioner has no concern with the alleged offence. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out as there is no recovery from the possession of the petitioner. The petitioner has no criminal antecedent as stated at para 3 of the bail petition.

6. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

7. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the



petitioner, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Siwan in connection with Guthani P.S. Case No. 263 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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