

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33857 of 2023

Arising Out of PS. Case No.-11 Year-2023 Thana- KUTUMBA District- Aurangabad

SEBI DEVI WIFE OF SONU KUMAR RESIDENT OF VILLAGE- AMWA,
PS- CHATTARPUR, DISTT- PALAMU (JHARKHAND)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nikita Mittal

For the Opposite Party/s : Mr.Murli Dhar

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

ORAL ORDER

2 24-06-2023 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.

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

The Petitioner is apprehending his arrest in a case in connection with Kutumba P.S. Case No. 11 of 2023 dated 24.1.2023 registered for the offences punishable under sections 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 30 litres of Mahua liquor was recovered from the motorcycle of the petitioner.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing



incriminating material has been recovered from the conscious possession of the petitioner. Hence no case is made out. The said motorcycle was not being driven by the petitioner who is also a lady and she is only the owner of the said vehicle. The said vehicle was driven by the brother of the petitioner. The petitioner has got clean antecedent as stated at para 3 of the bail petition. 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.

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.

Considering the aforesaid facts and circumstances of the case, as well as the nature of allegation, 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 learned Court concerned, Aurangabad in connection with Kutumba P.S. Case No. 11 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

Ajay Singh/-

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