

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56625 of 2023

Arising Out of PS. Case No.-133 Year-2022 Thana- KORHA District- Katihar

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KAMLI DEVI W/o Manohar Banjara Resident of village - Jurabganj, P.S. -
Korha, Distt. - Katihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brij Mohan Das, Adv.

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 3 15-09-2023 1. Heard learned counsel for the petitioner and the
learned A.P.P. for the State.
2. The petitioner apprehends her arrest in connection
with Korha P.S. Case No. 133/2022 dated 18.03.2022, registered
for the offence under Section 30A of the Bihar Prohibition and
Excise Act.
3. Recovery is of 7.875 liters of foreign liquor.
4. Learned counsel appearing for the petitioner
submits that the petitioner has clean antecedent and she has
falsely been implicated in this case only on the ground that she
is owner of the scooty in question. He further submits that as per
F.I.R., 7.875 liters of foreign liquor has been recovered from the
scooty in question. He further submits that in fact, nothing has
been recovered from the conscious possession of the petitioner.



He further submits that there is non-compliance of Section 100 of the Cr.P.C. and the petitioner was not apprehended at the spot. No case, whatsoever alleged in the F.I.R., is made out against the petitioner under the Bihar Prohibition and Excise Act. Hence, the petitioner may be granted the privilege of anticipatory bail.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner and referring to the provision contained in Section 76(2) of the Bihar Prohibition and Excise Act, he submits that pre-arrest bail is not maintainable but fairly submits that the petitioner has clean antecedent.

6. This Court is aware of the decision of the Full Bench rendered in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019(2) PLJR, 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.

7. Considering the facts and circumstances of the case and also the fact that nothing has been recovered from the conscious possession of the petitioner, let the, above named,



petitioner in the event of arrest of surrender before the court below within a period of four weeks from the date of 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 learned Special Excise Court No.2, Katihar, in connection with Korha P.S. Case No. 133 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with the 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 canceled by the Court below.

(2) If the petitioner tamper 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 bond in terms of the above-mentioned order



shall not be delayed for purpose of or in the name of
verification.

(Rajesh Kumar Verma, J)

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