

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60283 of 2023**

Arising Out of PS. Case No.-190 Year-2023 Thana- ROHTAS District-
Rohtas

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ANITA DEVI WIFE OF MANGRU BHUIYAN @ MANGAUL BHUIYAN
VILLAGE- JAGODIH, PS- AMJHOR, DIST- ROHTAS

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 06-12-2023 Heard Mr. Rajesh Kumar Singh, learned counsel for

the petitioner and Mr. Bhanu Pratap Singh, learned A.P.P. for

the State.

The petitioner apprehends his arrest in connection
with Rohtas (Amjhor) P.S. Case No. 190 of 2023 registered
for the offence under Section 30(a) of the Bihar Prohibition
and Excise Act.

Recovery is of 20 liters of country made liquor.

Learned counsel appearing for the petitioner
submits that the petitioner is innocent and has falsely been
implicated in this case. He further submits that on bare
perusal of the F.I.R. and the seizure list, it appears that
nothing has been recovered from the conscious possession



of the petitioner rather the alleged recovery has been made from the house of the petitioner. He further submits that the petitioner has no concern at all with the alleged recovery and merely on the basis of suspicion, this petitioner has been implicated in this case. He further submits that her name transpired in this case on the disclosure made by the local chaukidar. Save and except the disclosure of the local chaukidar, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence. He further submits that there is non-compliance of Section 100 Cr.P.C. while preparing the seizure list, therefore, no case would be made out against the petitioner under the Bihar Prohibition and Excise Act.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submits that this application seeking pre-arrest bail would not be maintainable. He further submits that the petitioner carries one more case other than the present one.

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 facts and circumstances of the case and the fact that nothing incriminating has been recovered from the possession of the petitioner and she has been made accused in this case at the behest of local chaukidar on the basis of suspicion, let the, above named, petitioner, in the event of her arrest or surrender before the court below within a period of four weeks, 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 Exclusive Special Excise Court No.2 -cum- Additional District and Sessions Judge, Rohtas at Sasaram in connection with Rohtas (Amjhor) P.S. Case No. 190 of 2023, 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 his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

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 his 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)

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