

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63958 of 2023

Arising Out of PS. Case No.-315 Year-2022 Thana- KHAGARIA District- Khagaria

Ruby Devi W/O Late Neeraj Kumar R/O Village- Gandhi Nagar, Ward No. 4,
Ps. Khagaria, Dist. Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar Singh, Adv.

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

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-10-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Khagaria (Muffasil) PS Case No. 315 of 2022, dated 13-04-2022 registered for the offence punishable under Sections 30(a) of the Bihar Prohibition and Excise Act.

3. There is alleged recovery of 5139 liters illicit liquor from some standing vehicles. Petitioner's car was seen fleeing away from the place.

4. Learned counsel for the petitioner submits that the allegation even if accepted gives rise only to a suspicion and on that basis, no case would be made out under the provisions of the Bihar Prohibition and Excise Act. The petitioner's vehicle was being plied by the driver at the relevant time and



the vehicle has not been recovered from the place where the illicit liquor was recovered. Petitioner has also no criminal antecedents.

5. The learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that pre- arrest bail would not be maintainable.

6. This Court is conscious of decision of the Full Bench 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 said judgment and the submissions advanced on behalf of the petitioner, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of counsel for the petitioner. Prayer for anticipatory bail is allowed.

7. Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, 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 Exclusive Special Excise Judge-1 Khagaria, in connection with Khagaria (Muffasil) PS Case No. 315 of 2022, dated



13-04-2022, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure with following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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