

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66381 of 2023

Arising Out of PS. Case No.-257 Year-2020 Thana- GARKHA District- Saran

Usha Devi W/o Shyam Babu Ray R/o vill - Kasina Gachhi Tola, P.S. -
Garkha, Distt. - Saran, Bihar

... .. Petitioner/s

Versus

The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Yadav, Advocate
For the Opposite Party/s : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-11-2023 Heard Mr. Pramod Kumar Yadav, learned counsel
for the petitioner and Mr. Anil Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending her arrest in connection with Garkha P.S. Case No. 257 of 2020, F.I.R dated 12.06.2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act and Sections 413 and 414 of the Indian Penal Code.

3. Recovery is of 20 liters of country made liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and she has falsely been implicated in the present case only on the ground that she is the wife of the co-accused person, namely, Shyam Babu Ray. He further submits that it appears from the F.I.R as well as seizure



list that nothing has been recovered from the conscious possession of the petitioner. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioner referring the provision contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that the pre-arrest bail would not be maintainable.

6. The 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, the Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submission of counsel for the petitioner.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and the petitioner has clean antecedent and she has been made accused in this case only on the ground that she is the wife of the co-accused person, let the petitioner, above named, in the event of



her arrest or surrender before the court below within a period of thirty days from the date of receipt of the 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 the learned Court of SPL Judge (I), Excise Act, Chapra, Saran in connection with Garkha P.S. Case No. 257 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. 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 cancelled by the Court below.

ii. 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.

iii. 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 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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