

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70464 of 2023**

Arising Out of PS. Case No.-201 Year-2022 Thana- BIND District- Nalanda
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RAJIYA BANO Wife of Md. Kalim Resident of Mohli Chawan, P.S.-Giridih
Town, District-Giridih, Jharkhand.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pankaj Kumar
For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-11-2023 Heard Mr. Pankaj Kumar, learned counsel for the

petitioner and Mr. Tarkeshwar Nath Thakur, learned A.P.P. for the

State.

The petitioner apprehends her arrest in connection
with Bind P.S. Case No. 201 of 2022 registered for the offence
under Sections 467, 468, 471, 420, 120(B)/34 of the Indian Penal
Code and Section 30(a), 32(ii)(iii), 34, 36, 38, 41(i)(ii) of the Bihar
Prohibition and Excise Act.

Recovery is of 734.4 liters of foreign liquor.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, is innocent and
has falsely been implicated in this case merely on the ground that
the petitioner happens to be owner of the alleged vehicle from
which liquor has been recovered. 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 vehicle in question of which the petitioner is said to be the owner. He further submits that the owner book of the vehicle in question has been recovered from the pocket of co-accused, Md. Mobin who was driving the alleged vehicle. Save and except the fact the petitioner happens to be owner of the vehicle in question, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioner in the alleged occurrence. Moreover, co-accused, Md. Mobin Ansari, Hasmuddin Ansari, Md. Mahtab Khan, Md. Amzad Khan @ Bablu and Shankar Poddar have already been granted bail by a co-ordinate Bench of this Court vide order dated 19.05.2023 passed in Cr. Misc. No. 19983 of 2023. 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.

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 he has been made accused in this case only on the ground that she happens to be owner of the vehicle in question, 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 Additional Sessions Judge-II -cum- Special Judge, (Excise Act), Nalanda at Bihar Sharif in connection with Bind P.S. Case No. 201 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 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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