

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74532 of 2022

Arising Out of PS. Case No.-318 Year-2022 Thana- RAMKRISHNANAGAR District- Patna

SAROJ KUMARI Wife of Upendra Kumar Resident of Village - Sandalpur,
Kumhrara, P.S.- Bahadurpur, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Advocate.

For the Opposite Party/s : Mr. Shyam Bihari Singh, APP.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 03-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State through video conferencing.

The petitioner is apprehending her arrest in connection with Ram Krishna Nagar P. S. Case No. 318 of 2022 giving rise to Special Case No. 3473 of 2021 registered for the offences punishable under Sections 30(a), 32(ii) and 41 of the Bihar Prohibition and Excise Act.

As per the prosecution case, the police, on a secret information, raided the house of one Om Prakash Singh. On



search, total 150.42 litres illicit liquor was recovered from the different vehicles.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the possession of the petitioner. The petitioner has not been present at the spot but being owner of the said motorcycle, she has been dragged in this case on the instance of her enemies. The petitioner is a lady. The petitioner has got no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

Learned APP for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.



Considering the aforesaid facts and circumstances, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Court concerned, Patna in connection with Ram Krishna Nagar P. S. Case No. 318 of 2022 giving rise to Special Case No. 3473 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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