

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70839 of 2022

Arising Out of PS. Case No.-858 Year-2022 Thana- MADHEPURA District- Madhepura

POONAM DEVI @ PUNAM DEVI W/O Laxman Sah R/O Village-
Sakarpura P.S- Madhepura (Bharrahi OP), District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amarnath Jha

For the Opposite Party/s : Mr.Sanjay Kumar

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

ORAL ORDER

2 13-01-2023 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
Special Public Prosecutor for the State.

The Petitioner is apprehending her arrest in a case registered for the offences punishable u/s 21(B), 22(B) of N.D.P.S. Act and 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, on secret information, the police raided the house of the co-accused Ravi Ranjan Kumar and recovered 2 bottles of Corex Cough Syrup, 100 ml each, while two miscreants fled away. Thereafter, the police raided the house of the co-accused Laxman Sah and 15 litres of



mahua was recovered from the cowshed while two miscreants fled away and one was apprehended. The apprehended miscreant disclosed his name as Bulbul sah and the name of the miscreants who fled away as Laxman Sah and this petitioner Poonam Devi.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case on mere suspicion. Nothing has been recovered from the conscious possession of the petitioner. As per seizure list, the recovery was made from the house of the co-accused. The petitioner is a lady. The petitioner has no criminal antecedent as stated at 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 judgement of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 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 S.P.P. 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 of the case, as well as the nature of allegation, let the above named petitioner, in the event of her arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Madhepura in connection with Madhepura P.S. Case No. 858 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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