

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75625 of 2023

Arising Out of PS. Case No.-66 Year-2023 Thana- CHAORI District- Bhojpur

Nira Devi W/O Dinesh Ram Village- Moapkalan, Moap, Buzurg, Ps. Chauri,
Dist. Bhojpur At Ara

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shantam Shivam, Advocate

For the Opposite Party/s : Mr.Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 29-11-2023 Heard Mr.Shantam Shivam,learned counsel for the

petitioner and Mr.Surendra Prasad Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in connection with Chauri P.S.Case No.66 of 2023,FIR dated 08.07.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 15 liters of illicit country made Mahua liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. She has falsely been implicated in the present case merely on the ground that she is owner of the motorcycle in question from which the recovery has been made. Learned counsel for the petitioner submits that in fact the



husband of the petitioner was apprehended alongwith the illicit liquor and the motorcycle and she has no concern at all with the alleged recovery of illicit liquor and she has been made accused in this case only on the ground that she is owner of the motorcycle in question. 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 petitioners under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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. 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) PLJR 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.

7. Considering the aforesaid facts, the petitioner has clean antecedent, nothing has been recovered from possession



of the petitioner and the name of the petitioner has been transpired on the basis that she is owner of the motorcycle in question, 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 learned Exclusive Special Excise Court-1, Bhojpur at Ara in connection with Chauri P.S.Case No.66 of 2023, 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 his/her absence on two consecutive dates without sufficient reason, his/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 his/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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