

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73533 of 2023

Arising Out of PS. Case No.-296 Year-2023 Thana- KUSHESHWARASTHAN District-
Darbhanga

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Pooja Devi @ Puja Devi Wife Of Praveen Mukhiya Resident Of Village -
Tarso, Police Station - Kusheshwarasthan, District - Darbhanga

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 09-11-2023 Heard Mr. Nilendu Kumar Choudhary, learned

counsel for the petitioner and Mr. Raj Ballabh Singh, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Kusheshwarasthan P.S. Case No. 296 of 2023,
F.I.R dated 19.08.2023 registered for the offences punishable
under Section 30(a) of Bihar Prohibition and Excise
(Amendment) Act, 2022.

3. Recovery is of 3 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. He further submits that it appears
from the F.I.R that total 3 liters of country made liquor in a



green plastic bag has been recovered from the hut in question. He further submits that the said hut in question is the joint property of the family members of the petitioner and she was not apprehended. He further submits that the on the basis of the disclosure made by the local chowkidar, the name of the petitioner has been transpired. 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, 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 Exclusive Special Judge-II (Excise Act), Darbhanga in connection with Kusheshwarasthan P.S. Case No. 296 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 her absence on two consecutive dates without sufficient reason, her bail bond shall be cancelled 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.

3. 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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