

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72152 of 2022**

Arising Out of PS. Case No.-315 Year-2021 Thana- GUTHANI District- Siwan

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Soni Kumari Yadav @ Soni Devi D/o Nandji Yadav R/v- Biswania, P.S.-
Darauli, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Pandey, Advocate.
For the Opposite Party/s : Mr. Md. Nazir Ansari, A.P.P.

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

2 20-01-2023 Learned counsel for the petitioners 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 petitioners and learned

Additional Public Prosecutor for the State through video

conferencing.

The petitioner is apprehending her arrest in connection

with Guthani P. S. Case No. 315 of 2021 registered for the

offences punishable under Section 30(a) of the Bihar Prohibition

and Excise Act.

As per the prosecution case, three accused persons

boarding on two motorcycles were coming. On seeing the

police, all the accused persons started fleeing away but they

were apprehended who disclosed their names as Anil Yadav,



Manish Yadav and Akash Kumar Yadav. On search, total 08.150 litres illicit liquor was recovered.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is not named in the F.I.R. Nothing has been recovered from the possession of the petitioner. The petitioner is the registered owner of the said motorcycle. The said motorcycle has not been driven by the petitioner. The petitioner was not present at the spot but being owner of the said motorcycle, she has been dragged in this case at the instance of her enemies. The petitioner is a lady who is a house wife. 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 her 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, Siwan in connection with Guthani P. S. Case No. 315 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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