

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17974 of 2024

Arising Out of PS. Case No.-1411 Year-2023 Thana- PHULWARISHARIF District- Patna

Babita Devi Wife of Bhuneshwar Chaudhary @ Bhuneshwar Manjhi Resident
of Village - Nagwan, P.S. - Phulwari Sharif (Janipur), District - Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar

For the Opposite Party/s : Mr.Pramod Kumar Pandey

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

ORAL ORDER

2 18-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Phulwari Sharif (Janipur) P.S Case No. 1411/2023 dated 28.09.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 12 litres of illicit country-made liquor was recovered from the house of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from



the conscious possession of the petitioner, hence no case is made out. The petitioner is a lady. 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 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.

5. Learned A.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. It is further submitted that the recovery is made from the house of the petitioner.

6. Considering the aforesaid facts and circumstances of the case as well as the materials available on record against the petitioner, I am of the view that no case for grant of anticipatory bail is made out. The petition is disposed of and the petitioner is directed to surrender to the Court below within six weeks from the date of this order and the Court below shall consider the prayer of the bail of the petitioner on the same day



without being prejudice by this order.

7. This application stands disposed of.

(Chandra Prakash Singh, J)

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