

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30232 of 2024

Arising Out of PS. Case No.-10 Year-2015 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

=====

Babita Devi W/o- Dev Kumar Paswan Vill- Nathudwar Ps- Khanpur Dist-
Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Bindeswari Singh
For the Opposite Party/s : Mr.Sucheta Yadav

=====

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

ORAL ORDER

2 23-04-2024 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.

2. Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in
connection with Samastipur Excise P.S Case No. 10/2015 dated
29.07.2015 for the offences punishable u/s 47(a)(f) of the Bihar
Prohibition and Excise Act.

4. As per the prosecution case, total 10 litres of illicit
country-made liquor, 180 litres of *jawa gud* and liquor making
apparatus were recovered from the house of the petitioner.

5. 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.

6. 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 from the house of the petitioner.

7. 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.

(Chandra Prakash Singh, J)

atul/-

U		T	
---	--	---	--

