

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28749 of 2024

Arising Out of PS. Case No.-249 Year-2023 Thana- PUNAURA District- Sitamarhi

Umesh Rai @ Umesh Yadav S/O Bindeshwar Yadav R/O Village- Ranjitpur
West, Ward No. 9, P.S- Punaura, Distt.- Sitamarhi.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Pushpendra Kumar Singh, Advocate
For the Opposite Party : Mr. Rana Randhir Singh, A.P.P.

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

ORAL ORDER

2 19-07-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in a case in connection with Punaura P.S. Case No. 249 of 2023 dated 28.10.2023 for the offences punishable u/ss 224, 225 and 353/34 of the IPC and u/ss 30(a) and 45 of the Bihar Prohibition and Excise Act, 2018.

3. As per the prosecution case, total 11.40 litres of illicit nepali saufi liquor was recovered from the orchard of Upendra Baitha. The accused person caused hindrance in discharging of the official duty of the police personnel.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. No incriminating material has been recovered from the conscious possession of the petitioner. The recovery was made from an open place which is accessible to anyone. The petitioner has no concern with the alleged recovery. The petitioner has 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. The other accused person has already been granted anticipatory bail by this Court vide order dated 23.02.2024 passed in Cr. Misc. No. 9809 of 2024. 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.

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.

6. Considering the aforesaid facts and circumstances



of the case as well as the material available on record, let the above named petitioner, in the event of her arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Sitamarhi in connection with Punaura P.S. Case No. 249 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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