

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38308 of 2024

Arising Out of PS. Case No.-969 Year-2023 Thana- KATIHAR NAGAR District- Katihar

Pinki Devi Wife of Ajay Paswan Resident of Village - Gaushala, P.S.- Katihar
Sahayak, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
For the State : Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2024 Heard Mr. Sanjeev Kumar Singh, learned counsel
for the petitioner and Ms. Veena Kumari Jaiswal, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in connection with Katihar Nagar P.S. Case No. 969 of 2023, F.I.R dated 30.12.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 100 liters of country made wine from two bags which was found from a scooty.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated and the petitioner has been made accused only on the basis that the she



is owner of the scooty in question from which the illicit liquor has been recovered. He further submits that the scooty in question is already sold by the petitioner to one Saurabh Kumar by way of an agreement dated 17.07.2023 before the present occurrence. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner. 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. This 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, this 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, the petitioner has clean antecedent and she has been made accused only on the basis that she is the owner of the scooty in question, 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 Court of Additional District & Sessions Judge, Exclusive Excise Court-2, Katihar in connection with Katihar Nagar P.S. Case No. 969 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.



iii. 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 his 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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