

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38137 of 2024

Arising Out of PS. Case No.-220 Year-2023 Thana- LAKHNAUR District- Madhubani

Reena Devi W/O Chandan Kumar Thakur R/O Village- Mahuli, P.S.
Lakhnaur, District-MADHUBANI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2024 Heard Mr. Gagan Deo Yadav, learned counsel for the

petitioner and Mr. Anil Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending her arrest in connection with Lakhnaur P.S. Case No. 220 of 2023, F.I.R. dated 13.10.2023 registered for the offences punishable under Sections 272, 273, 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise Act, 2018.

3. Recovery is of 900 ml Nepali liquor and 375 ml English whisky.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and she has falsely been implicated in the present case merely on the ground that the petitioner is the owner of the motorcycle in question from the



alleged recovery has been made. He further submits that the petitioner has no concern at all with the alleged recovery of illicit liquor and it appears from the F.I.R. itself that no incriminating article has been recovered from the possession of the petitioner. Therefore, the recovery cannot be attributed to 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 and the petitioner having clean antecedent as well as she has been made accused merely on the ground that she is the owner of the motorcycle 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 learned Special Judge, Excise Act, Jhanjharpur, District- Madhubani in connection with Lakhnaur PS. Case No. 220 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

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

2. 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.

3. 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 her 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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