

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38121 of 2024

Arising Out of PS. Case No.-52 Year-2020 Thana- MAIRWAN District- Siwan

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Rani Srivastava Wife of Rupesh Kumar @ Rupesh Kumar Srivastava
Resident of Village - Majhauri Road, Near Hospital More, Police Station -
Mairwa, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Advocate

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 26-06-2024 Heard Mr. Bijay Prakash Singh, learned counsel for

the petitioner and Mr. Tarkeshwar Nath Thakur, learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Mairwa P.S. Case No. 52 of 2020, F.I.R. dated
20.02.2020 for the offences punishable under Sections 30(a) of
Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Recovery is of 116.370 liters of Indian made
foreign liquor.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent and she has falsely been
implicated in the present. He further submits that the petitioner
is not named in the F.I.R and she has been made accused in this



case merely on the ground that she is the owner of the tempo in question from where 116.370 liters of Indian made foreign liquor has been recovered. He further submits that it appears from the F.I.R as well as seizure list that co-accused, namely, Ajay Kumar Gupta who was driver of the said tempo in question was arrested along with one Ranjan Kumar. 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 and circumstances that the petitioner has clean antecedent and she has been made accused only on the ground that she is the owner of the tempo in question from where the recovery has been made, 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 Exclusive Special Excise Court No. 1, Siwan in connection with Mairwa P.S. Case No. 52 of 2020, 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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