

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45612 of 2024

Arising Out of PS. Case No.-274 Year-2022 Thana- SUGAULI District- East Champaran

Shila Devi Wife of Rakesh Sahani R/O Vill.- Mehwa, P.S.- Sugauli, Dist.-
East Champaran, Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate
For the State : Ms. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 20-07-2024 Heard Mr. Rajesh Kumar, learned counsel for the

petitioner and Ms. Pushpa Sinha, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Sugauli P.S. Case No. 274 of 2022, F.I.R. dated
13.06.2022 for the offences punishable under Sections 272,
273/34 of the Indian Penal Code and Section 30(a)(c) of Bihar
Prohibition and Excise (Amended) Act.

3. Recovery is of 15 liters of country made liquor
from the house of the petitioner and 2000 liters mahua meetha
liquid from the back side of the house of the petitioner.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and she has falsely been
implicated in the present case. He further submits that it appears



from the F.I.R and the Seizure List that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the house of the co-accused, namely, Rakesh Sahani and the petitioner is the wife of Rakesh Sahani. 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 and the fact that the petitioner has clean



antecedent and she has been made accused in the present case only on the ground that she is wife of the co-accused, namely, Rakesh Sahani, 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 Special Judge Excise Court No. 1, East Champaran, Motihari in connection with Sugauli P.S. Case No. 274 of 2022, 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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