

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48737 of 2024

Arising Out of PS. Case No.-151 Year-2024 Thana- PARSA District- Saran

1. Chani Nut Son of Late Jogi Nut
2. Bebi Devi W/O- Chani Nut.
Both are R/O Of Vill.-Shankar Dih, P.S.-Parsa, District- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Rajani Kumari, Advocate
For the Opposite Party/s : Mr.Surendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-08-2024 Learned counsel for the petitioners seeks permission to withdraw this anticipatory bail application with respect to petitioner No.1, namely, Chani Nut.

2. Permission is accorded.

3. Accordingly, the anticipatory bail petition with respect to petitioner No.1, namely, Chani Nut is dismissed as withdrawn.

4. Heard Ms.Rajani Kumari, learned counsel for petitioner No.2, namely, Baby Devi and Mr.Surendra Kumar, learned Additional Public Prosecutor for the State.

5. The petitioner is apprehending her arrest in connection with Parsa P.S.Case No.151 of 2024, FIR dated 07.05.2024 registered for the offences punishable under Section



30(a) of Bihar Prohibition and Excise Act, 2016.

6. Recovery is of 300 liters of country made liquor.

7. Learned counsel for the petitioner submits that the petitioner has clean antecedent and she has falsely been implicated in the present case. Further submits that from a bare perusal of the FIR it appears that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made behind the house of co-accused, namely, Maina Devi and the name of the petitioner has been transpired on the basis of the disclosure made by the co-accused persons, namely, Bhardul Nut, Dashee Nut and Putul Devi. 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 petitioners under the Bihar Prohibition and Excise Act.

8. Learned A.P.P. for the State has vehemently opposed the prayer for 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.

9. 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) PLJR 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.

10. Considering the aforesaid facts, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired on the basis of disclosure made by the co-accused persons, let petitioner No.2, 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 3rd Special Judge Excise-III, Saran at Chapra in connection with Parsa P.S.Case No.151 of 2024, 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/her absence on two consecutive dates without sufficient



reason, his/her 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/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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