

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60646 of 2024

Arising Out of PS. Case No.-141 Year-2023 Thana- SALAIYA District- Aurangabad

Sushma Kumari Wife of Sanoj Kumar R/o village - Bariyawan, P.S.- Salaiya,
District - Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Singh, Adv.

For the Opposite Party/s : Mr. Bishweshwar Ram, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 04-10-2024 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in connection with Salaiya P.S Case No. 141 of 2023 dated 05.11.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 15 litres of illicit liquor was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is further submitted that the seized motorcycle is in the name of the petitioner's wife and at the



time of the alleged occurrence the motorcycle was being driven by the petitioner. The petitioner is a lady and has no criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused has been granted anticipatory bail by this Court vide order dated 30.01.2024 passed in Cr. Misc. No. 85534 of 2023. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

6. Considering the aforesaid facts and



circumstances of the case as well as the nature of allegation against the petitioner, let the above named petitioner, in the event of her arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Aurangabad in connection with Salaiya P.S Case No. 141 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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