

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64407 of 2024

Arising Out of PS. Case No.-128 Year-2024 Thana- BAUNSI District- Araria

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Talkoy Hembram @ Talkom Hamram W/o Dena Murmu R/o Village-
Rajvaili, Ward No. 10, P.S.-Bounsi, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madhav Jha, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard Mr. Madhav Jha, learned counsel for the

petitioner and Mr. Madan Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Bounsi P.S. Case No. 128 of 2024, F.I.R dated
13.06.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 25 liters of country made Chulai
liquor.

4. Learned counsel for the petitioner submits that
the 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 that nothing has been recovered from the
conscious possession of the petitioner rather the recovery has



been made from the motorcycle in question. He further submits that the husband of the informant is the owner of the motorcycle in question and the petitioner has been made accused only on the ground that the motorcycle belongs to the husband of 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. The 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, the 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 that nothing has been recovered from conscious possession of the petitioner, she



has been made accused only on the ground that she is the wife of the co-accused person and the petitioner has clean antecedent, 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 Additional District Judge-cum-Special Judge Excise-II, Araria in connection with Bounsi P.S. Case No. 128 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 her absence on two consecutive dates without sufficient reason, 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 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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