

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67355 of 2024

Arising Out of PS. Case No.-10 Year-2024 Thana- BAUNSI District- Banka

Rubi Kumari @ Rubi Devi @ Ravua Kumari @ Raubhi Kumari C/O Rohit Ray R/O Gram- Makarna Dih, P.S.- Bausi, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-10-2024 Heard Mr. Vijay Anand, 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 Baunsi P.S. Case No. 10 of 2024, F.I.R dated 09.01.2024 registered for the offences punishable under Sections 30(a)/47 of Bihar Prohibition and Excise Act.

3. Recovery is of 60 liters of country made mahua liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and she has falsely been implicated in the present case merely on the ground that she is owner of the motorcycle in question. He further submits that it appears from the F.I.R as well as seizure list that nothing has



been recovered from the conscious possession of the petitioner rather the recovery have been from the motorcycle in question. He further submits that altogether 60 litres of country made mahua liquor has been recovered from the motorcycle in question and the petitioner has been made accused in the present case merely on the ground that she is owner of the motorcycle in question. 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. Learned Additional Public Prosecutor for the State, on the other hand, 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, nothing has been recovered from conscious possession of the petitioner, the petitioner has clean antecedent and she has been made accused merely on the ground that she is owner of the motorcycle in question, let the petitioner, above named, in the event of his 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 A.D.J. II, Banka in connection with Baunsi P.S. Case No. 10 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 absence on two consecutive dates without sufficient reason, his 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 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)

ajay/-

U		T	
---	--	---	--

