

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79212 of 2023

Arising Out of PS. Case No.-85 Year-2023 Thana- PALANWA District- East Champaran

Krishna Devi Wife Of Fagu Mukhiya Resident Of Village- Parsauni Tapasi,
Ps- Palanwa, Distt- East Champaran

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh, Adv.

For the Opposite Party/s : Mr.Parmanand Prasad, APP

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

ORAL ORDER

2 05-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Palanwa P.S. Case No. 85 of 2023 dated 21.04.2023 for the offences punishable u/s 30(a) and 41(i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 2 litres of illicit country made liquor was recovered from the courtyard of the house of the petitioner which was concealed near drainage of hand pump.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is a lady and she has no criminal antecedent as stated



in para 3 of the bail petition. Learned counsel has further submitted that the recovery has been made from an open place which is accessible to anyone. It is further submitted that the petitioner has no concern with the alleged recovery and nothing has been recovered from the possession of the petitioner, hence no case is made out. 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 his 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, East Champaran in connection with Palanwa P.S. Case No. 85 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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