

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2852 of 2024

Arising Out of PS. Case No.-382 Year-2022 Thana- DURGAWATI District- Kaimur (Bhabua)

Jirawati Devi W/O Harichandra Patel @ Harischandra, R/O Village-
Madiyahu Dadar, P.S- Dadar Madiyahu, Distt.- Jaunpur (U.P).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 21-03-2024 Heard Mr. Rajani Kant Pandey, the learned counsel
for the petitioner and Mr. Abhay Kumar, the learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Durgawati PS Case No. 382 of 2022, FIR dated
20.12.2022, registered for the offence punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 1717.905 litres of foreign liquor of
different brands and different contents.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and she has falsely been
implicated in the present case. He further submits that it appears
from the FIR that nothing has been recovered from the
conscious possession of the petitioner, rather the recovery has



been made from the truck in question and the name of the petitioner has transpired on the basis that petitioner is the owner of the truck in question. He further submits that petitioner has no concern with the alleged recovery and she has given the truck in question to one Rakesh, and she has no knowledge about the present occurrence. 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. 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 and circumstances



and the fact that petitioner has clean antecedent, her name has transpired on the ground that she is the owner of the truck in question and nothing has been recovered from her conscious possession, let the petitioner, above-named, in the event of her arrest or surrender before the trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory 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 Court of Additional District Judge-VII-cum-Special Judge (Excise) No. 11, Kaimur at Bhabua, where the case is pending in connection with **Durgawati PS Case No. 382 of 2022**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:-

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial Court and shall remain physically present as directed by the trial Court and on her absence on two consecutive dates without sufficient reason, her bail bond shall be cancelled by the trial Court.

(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 trial Court 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 trial Court 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.

(iv) one of the bailors shall be the husband of the petitioner namely, Harichandra Patel @ Harischandra.

(Rajesh Kumar Verma, J)

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