

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1774 of 2024

Arising Out of PS. Case No.-258 Year-2021 Thana- MADANPUR District- Aurangabad

Kaushalya Devi @ Koushlya wife of Ramswroop @ Ram Savrop Mehta
Village- Baligaon P.S Rafigaj Distt Aurangabad, P/A- H.No-89, Akbarpur
Barda Dist- Sonipat Hariyana

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 01-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Madanpur P.S. Case No. 258 of 2021 dated 13.09.2021 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 245 litres of spirit was recovered from the two different motorcycles.

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. The petitioner is not named in the F.I.R. The petitioner is the owner of the said motorcycle bearing



registration no. HR10AG8112 but the said vehicle was not being driven by the petitioner at the time of the alleged recovery. Nothing has been recovered from the possession of the petitioner and the petitioner has no concern with the alleged recovery hence, no case is made out against the petitioner. 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, Aurangabad in connection with Madanpur P.S. Case No. 258 of 2021, 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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