

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.2492 of 2024**

Arising Out of PS. Case No.-817 Year-2023 Thana- AURANGABAD TOWN District-  
Aurangabad

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Pushapa Devi @ Pushpa Devi W/o Vinod Chaudhari R/o vill - Gaya Gola,  
Chaudhary Tola, Baraipur, ward no. 16, P.S. - Nagar, distt. - Aurangabad

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Pramendra Kumar Singh  
For the Opposite Party/s : Mr.Shahabuddin Azeem @ S. Azeem

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

ORAL ORDER

2      02-02-2024              Learned counsel for the petitioner is permitted to  
  
remove the defect(s), as pointed out by the office, if any, within  
  
a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

3. The petitioner is apprehending her arrest in  
connection with Town P.S. Case No. 817 of 2023, dated  
10.11.2023 for the offences punishable under Sections 30(a) &  
37 of the Bihar Prohibition and Excise (Amended) Act, 2018.

4. As per prosecution case, total 2.340 litres of  
English wine has been recovered from the room of Vinod  
Choudhary's wife whereas 2.160 litres of illicit liquor was  
recovered from the room of Rajesh Choudhary.



5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. He further submits that on the date of occurrence, the petitioner was not present in the house and had gone for her husband treatment. As per seizure list, the recovery was made from the room of her husband. 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.

6. Learned APP 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.

7. 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 her 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, Aurnagabad in connection with Town P.S. Case No. 817 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

**(Chandra Prakash Singh, J)**

Ranjeet/-

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