

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5688 of 2025

Arising Out of PS. Case No.-633 Year-2023 Thana- NARHATT District- Nawada

Rekha Kumari @ Rekha Devi Son of Ram Chandra Ram, Resident of Village-
Amawan, P.S.- Rajauli, District- Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Verma, Advocate
For the Opposite Party/s : Mr. Anish Chandra, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Pramod Kumar Verma, the learned
counsel for the petitioner and Mr. Anish Chandra, the learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Narhat PS Case No. 633 of 2023, FIR dated
28.12.2023, registered for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 25 litres of country made liquor.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and she has falsely been
implicated in the present case merely on the ground that
petitioner is the owner of the motorcycle in question and
recovery has been made from the motorcycle in question. He
further submits that in fact, the motorcycle in question was
taken away by the nephew of the petitioner namely, Kindan



Rajbanshi, who was arrested along with the alleged liquor and petitioner has been made accused in the present case 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. / Section 103 of BNSS, 2023. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. The 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 and circumstances and mainly the facts that petitioner has clean antecedent,



nothing has been recovered from conscious possession of the petitioner 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 her arrest or surrender before the learned 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 Exclusive Special Excise Court-1, Nawada, where the case is pending in connection with **Narhat PS Case No. 633 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. / Section 482(2) of the BNSS, 2023 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 learned trial Court and shall remain physically present as directed by the learned trial Court and on her absence on two consecutive dates without sufficient reason, her bail bond shall be cancelled by the learned 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 learned trial Court 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 learned trial Court shall take steps 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)

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