

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5680 of 2025

Arising Out of PS. Case No.-453 Year-2024 Thana- MUFFASIL District- Aurangabad

Suryakanti Devi W/o- Rajendra Paswan, R/o Village- Panduki, P.S.-
Aurangabad Mufassil, Dist- Aurangabad.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Aman Vishal, Advocate

For the Opposite Party/s : Mr. Khurshid Anwar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 15-02-2025 Heard Mr. Aman Vishal, the learned counsel for the
petitioner and Mr. Khurshid Anwar, the learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Aurangabad Mufassil PS Case No. 453 of 2024,
FIR dated 25.11.2024, registered for the offence punishable
under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 80 litres of country made mahua
liquor.

4. Learned counsel for the petitioner submits that
petitioner has falsely been implicated in the present case and the
allegation levelled in the FIR is false and fabricated and the
petitioner has been made accused in the present case merely on
the basis of suspicion. He further submits that according to the
FIR and seizure list, nothing has been recovered from the



conscious possession of the petitioner, rather recovery has been made from the kiosk of the petitioner. 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. He further submits that petitioner carries two criminal antecedents of similar nature other than the present.

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 nothing has been recovered from



conscious possession of the petitioner and she has been made accused merely on the basis of suspicion, 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 District and Additional Sessions Judge-cum-Exclusive Special Judge, Excise Court No. 1, Aurangabad (Bihar), where the case is pending in connection with **Aurangabad Mufassil PS Case No. 453 of 2024**, 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 her 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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