

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3505 of 2025

Arising Out of PS. Case No.-734 Year-2023 Thana- Excise P.S. District- Araria

Jyoti Devi wife of Durganand Yadav, Resident of Village- Indranagar Haripur,
Ward No. 9, P.S.- Jogbani, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mrigendra Kumar, Advocate
For the Opposite Party/s : Mr. Kanhiya Kishor, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-02-2025 Heard Mr. Mrigendra Kumar, the learned counsel
for the petitioner and Mr. Kanhiya Kishor, the learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Araria Excise PS Case No. 734 of 2023, FIR
dated 14.10.2023, registered for the offences punishable under
Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 36 litres of Nepali liquor.

4. Learned counsel for the petitioner submits that
petitioner has falsely been implicated in the present case and
petitioner is not named in the FIR and name of petitioner
transpired on the ground that petitioner is owner of the
motorcycle in question and recovery has been made from the
motorcycle in question. He further submits that in fact, the



petitioner has sold the motorcycle in question to one Pintu Mukhiya on 20.03.2021, but the said Pintu Mukhiya has not transferred the motorcycle in question in his name. 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 one criminal antecedent of similar nature, but fairly submits that petitioner is on bail in the pending matter.

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 name of petitioner transpired on the basis of fact that petitioner 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 District and Additional Sessions Judge-cum-Exclusive Special Excise Judge-II, Araria, where the case is pending in connection with **Araria Excise PS Case No. 734 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 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)

Shahnawaz/-

U		T	
---	--	---	--

