

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5142 of 2025

Arising Out of PS. Case No.-131 Year-2021 Thana- DARBHANGA District- Darbhanga

Kumari Devi W/O Hareram Ram R/O vill.- Sant Nagar, Gariya, Khutauna,
P.S.- Lalmaniya, Dist.- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, 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. Manoj Kumar Pandey, learned counsel
for the petitioner and Mr. Khurshid Anwar, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending her arrest connection with Nagar Kotwali P.S. Case No. 131 of 2021, F.I.R. dated 20.05.2021 registered for the offences punishable under Sections 272, 273/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise Act.

3. Recovery is of 162 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and she has falsely been implicated in the present case. He further submits that the petitioner is not named in the F.I.R. and the name of the petitioner has been transpired during investigation on the basis



that the petitioner is the owner of the vehicle in question. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather recovery has been made from the vehicle in question and one Babita Devi was apprehended along with the illicit liquor who stated before the police that one Vinod Mahto and Mukesh Mahto who are sons of the petitioner are indulged in the present crime in question and the vehicle in question belonged to the concerned co-accused persons. Therefore, the recovery cannot be attributed to 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 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 the fact that the petitioner having clean antecedent and the petitioner is not named in the F.I.R. and the name of the petitioner has been transpired only on the basis that she is the owner of the vehicle in question and nothing has been recovered from conscious possession of the petitioner, let the petitioner, above named, in the event of her arrest or surrender before the court below within a period of thirty days from the date of receipt of the order. be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge 1st, (Excise Act), Darbhanga in connection with Nagar Kotwali PS. Case No. 131 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of BNSS, 2023 and with other following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and



on her absence on two consecutive dates without sufficient reason, her bail bond shall be cancelled by the Court below.

2. 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.

3. And further condition that the court below 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 court below shall take step 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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