

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9111 of 2025

Arising Out of PS. Case No.-317 Year-2024 Thana- HARLAKHI District- Madhubani

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Golhiya Devi @ Bardaha Wali @ Goliya Devi W/o Khushi Lal Yadav R/o
village - Umgaon , p.s.- Harlakhi , District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav, Advocate Mr. Vinod Kumar, Advocate Mr. Rajesh Kumar, Advocate
For the State	:	Ms. Asha Devi, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-03-2025 Heard Mr. Gagan Deo Yadav, learned counsel for

the petitioner and Ms. Asha Devi, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Harlakhi P.S. Case No. 317 of 2024, F.I.R dated
12.12.2024 registered for the offences punishable under
Sections 274, 275 and 3(5) of BNS, 2023 and Section 30(a) of
Bihar Prohibition and Excise Amendemnt Act, 2022.

3. Recovery is of 9 liters of Nepali 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 it appears
from the F.I.R that nothing has been recovered from the



conscious possession of the petitioner rather 9 liters of illicit liquor has been recovered from the house of the petitioner. He further submits that apart from that at the time of enquiry, no one was present in the house of the petitioner and the petitioner is not the exclusive owner of the house in question rather the house is the joint family property of the petitioner. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C / Section 103 of Bhartiya Nagarik Suraksha Sanhita. 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 that the petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and the petitioner is not the exclusive owner of the house in question, let the petitioner, above named, in the event of his 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 the learned Additional District & Sessions Judge-II-cum-Special Judge (Excise Act), Madhubani in connection with Harlakhi P.S. Case No. 317 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita and with other following conditions:-

i. 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.

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 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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