

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17361 of 2025

Arising Out of PS. Case No.-51 Year-2021 Thana- BAISI District- Purnia

=====

Ayesha Khatoon W/O Abu Sama Resident of Khotta Para Kamat Doarin, P.S.-
Karandighi, District- Uttar Dinajpur, West Bengal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Md Fazle Karim, Advocate

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-04-2025 Heard Mr. Md. Fazle Karim, learned counsel for the

petitioner and Mr. Pawan Kumar Chaurasia, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending her arrest connection with Baisi P.S. Case No. 51 of 2021, F.I.R. dated 10.02.2021 registered for the offences punishable under Sections 272, 273 of the Indian Penal Code and Sections 30(a), 41 and 47 of the Bihar Prohibition & Excise Act.

3. Recovery is of 864.360 liters of *foreign* liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and she has falsely been implicated in the present case merely on the ground that the recovery has been from the Bolero Pickup vehicle in question and 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 driver of the vehicle was driving the vehicle and he was arrested along with the illicit liquor and petitioner was not present at the place of occurrence and she has been made accused merely on the ground that she is the owner of the motorcycle in question. 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 that nothing has been recovered from the conscious possession of the petitioner and she has been made accused merely on the ground that she is the owner of the vehicle 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 learned Exclusive Special Judge, Excise, Court No. 1, Purnea in connection with Baisi PS. Case No. 51 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 his absence on two consecutive dates without sufficient reason, his 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 his 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)

Ibrar//-

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

