

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30584 of 2025

Arising Out of PS. Case No.-550 Year-2024 Thana- Excise P.S. District- Siwan

Bindu Devi Wife of Chandrashekhar Kumar @ Chandrashekhar Kumar Ray
Resident of Village - Gopalpur, P.S. - Gopalpur, District - Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Shyamli Kumari, Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 14-05-2025 Heard Ms. Shyamli Kumari, learned counsel for the

petitioner and Mr. Ashok Kumar Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending her arrest
connection with Siwan Sadar P.S. Case No. 550 of 2024, F.I.R.
dated 12.09.2024 registered for the offences punishable under
Section 30(A) and 32(3) of the Bihar Excise Act.

3. Recovery is of 188.400 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. She 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 tempo in question and



she has been made accused merely on the ground that she is the owner of the tempo in question. It appears from the seizure list that two persons namely Gabbar Rai and Madan Kumar were apprehended along with illicit liquor in the tempo in question and they have clearly stated that they are the owner of the illicit liquor which was recovered from the tempo 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 and the fact that the petitioner having clean antecedent and nothing has been recovered from conscious possession of the petitioner and she has been made accused merely on the ground that she is the owner of the tempo in question, 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 Exclusive Special Excise Court No. II, Siwan in connection with Siwan Sadar PS. Case No. 550 of 2024, 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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