

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38139 of 2025

Arising Out of PS. Case No.-164 Year-2025 Thana- BETTIAH CITY District- West
Champaran

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Rekha Devi W/O Late Vikki Malik Resident of Vill- Naurangabagh, P.S.-
Bettiah Town, Dist- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate
For the Opposite Party/s : Mr. Shyam Bihari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-06-2025 Heard Mr. Sanjeev Kumar, learned counsel for the

petitioner and Mr. Shyam Bihari Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending her arrest
connection with Bettiah Town P.S. Case No. 164 of 2025, F.I.R.
dated 11.04.2025 registered for the offences punishable under
Sections 30(a)/37 of the Bihar Prohibition & Excise Act.

3. Recovery is of 10 liters of country made 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
allegation as alleged in the F.I.R. is false and fabricated and the
petitioner has not committed any offence as alleged in the F.I.R.



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 behind the house of the petitioner and the petitioner has no concern at all with the alleged recovery of illicit liquor and she has been made accused merely on the basis of suspicion and except the suspicion, no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. 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 the petitioner having clean antecedent and nothing has been recovered from conscious possession of the petitioner and she has been made accused on the basis of suspicion, 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 Judge, Excise- 1st, Bettiah, West Champaran in connection with Bettiah Town PS. Case No. 164 of 2025, 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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