

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40498 of 2025

Arising Out of PS. Case No.-100 Year-2025 Thana- JOGAPATTI District- West Champaran

Muga Devi @ Moga Devi W/o Late Jawahir Chaudhary, D/o Shankar Chaudhary R/o Village- Balua Malahi Tola, Ward no 6, P.S.- Yogapatti, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raki Alam, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-07-2025 Heard Mr. Raki Alam, learned counsel for the petitioner and Mr. Anil Kumar, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in connection with Yogapatti P.S.Case No.100 of 2025, FIR dated 04.03.2025 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 20 liters of illicit liquor.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent. She has falsely been implicated in the present case on the basis of disclosure made by the local villagers. From a bare perusal of the FIR as well as the seizure list, it appears that nothing incriminating has been recovered



from conscious possession of the petitioner rather the recovery has been made from a bush situated at the bank of Harha river and the petitioner has no concern at all with the alleged recovery of illicit liquor. Further submits that it appears from the F.I.R. that the prosecution has not disclosed the name of the villagers, who have disclosed the name of the petitioner. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner and the name of the petitioner has been transpired during investigation in the present case merely on the basis of disclosure made by the local villagers, 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 Court No.II, Bettiah West Champaran in connection with Yogapatti P.S.Case No.100 of 2025, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/under Section 482(2) of the B.N.S.S., 2023 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 his/her absence on two consecutive dates without sufficient reason, his/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 his/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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