

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44853 of 2025

Arising Out of PS. Case No.-140 Year-2025 Thana- TURKAULIYA District- East
Champaran

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PRABHA DEVI W/O JAGDEO MAHTO R/o vill - Kawalpur Dih, P.S.-
Turkauliya, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Kumar Tiwari, Advocate
For the State	:	Dr. Kumar Uday Pratap, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-07-2025 Heard Mr. Suraj Kumar Tiwari, learned counsel for
the petitioner and Dr. Kumar Uday Pratap, learned Additional
Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Turkauliya P.S. Case No. 140 of 2025, F.I.R
dated 01.04.2025 registered for the offences punishable under
30(a), 41(1) of Bihar Prohibition and Excise (Amendment) Act.

3. Recovery is of 25 liters of country made liquor.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and has falsely been implicated
in the present case. He further submits that from a bare perusal
of the FIR and seizure list, it appears that nothing has been
recovered from the conscious possession of the petitioner rather



recovery has been made from the hut of the co-accused person, namely, Asha Devi and petitioner has been made accused in the present case merely on the basis of secret information that the petitioner was involved in the present crime in question and except the secret information, no other material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. It is further submitted that recovery has been made from the house of co-accused Asha Devi and the petitioner has no concern at all with the alleged recovery of the illicit liquor. 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 for the State 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, the petitioner has clean antecedent, nothing has been recovered from conscious possession of the petitioner rather recovery has been made from the hut of co-accused person and she has been made accused merely on the basis of secret information, 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 the learned Special Judge Excise Court No. 1, East Champaran, Motihari in connection with Turkauliya P.S. Case No. 140 of 2025, 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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