

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45612 of 2025

Arising Out of PS. Case No.-326 Year-2025 Thana- Excise P.S. District- Gaya

Lutani Devi W/O Shiv Shankar Yadav R/O Village- Ketaru Nawada, P.S-
Gidhaur, Distt.- Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vishwa Ranjan Choudhary, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 21-07-2025 Heard Mr. Vishwa Ranjan Choudhary, learned
counsel for the petitioner and Mr. Ram Anurag Singh, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Excise P.S. Case No. 326 of 2025, F.I.R dated
25.03.2025 registered for the offences punishable under Section
30(a), 32(3) of Bihar Prohibition and Excise Act.

3. Recovery is of 2100 liters of foreign 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 the
allegation as alleged in the F.I.R is false and fabricated. He
further submits that it appears from the F.I.R that nothing has
been recovered from the conscious possession of the petitioner



rather the recovery has been made from the a Bolero pickup vehicle bearing Registration No.JH-15AK-6842. The petitioner has been made accused merely on the basis that he is the owner of the vehicle in question and two persons, namely, Mohd. Kamil Khan and Mohd. Tausif Raza was apprehended by the police and they escaped from the place of occurrence. 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 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, nothing has been recovered from conscious possession of the petitioner and the petitioner has clean antecedent and he has been made accused merely on the basis that he is the owner of the vehicle 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 the learned Exclusive Special Excise Court No.03, Gaya in connection with Excise P.S. Case No. 326 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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