

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44862 of 2025

Arising Out of PS. Case No.-91 Year-2025 Thana- ARER District- Madhubani

Mahavati Devi W/o Ramshish Sahni @ Ramashish Sahani R/o Village- Arer,
P.S.- Arer, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Kumari Pallavi, Advocate
For the State : Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-07-2025 Heard Ms. Kumar Pallavi, learned counsel for the

petitioner and Ms. Veena Kumari Jaiswal, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Arer P.S. Case No. 91 of 2025, F.I.R dated
03.05.2025 registered for the offences punishable under Section
274, 275 of the BNS and 30(a) of Bihar Prohibition and Excise
Act.

3. Recovery is of 45 liters of Nepali country made
wine.

4. Learned counsel for the petitioner submits that
the petitioner has clean antecedent, she is 81 years old lady 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 from a bare perusal of the FIR and seizure list, it appears that nothing has been recovered from the conscious possession of the petitioner and she has been made accused merely on the ground that she is the owner of the motorcycle in question. It is further submitted that one Ravi Sahni was apprehended on the spot along with the illicit liquor and the motorcycle in question. 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, nothing has been recovered from conscious possession of the petitioner, the petitioner has clean antecedent and she has been made accused merely on the ground that she is the owner of the motorcycle 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 Judge (Excise Court), Madhubani in connection with Arer P.S. Case No. 91 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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