

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72523 of 2024

Arising Out of PS. Case No.-73 Year-2024 Thana- AAJAM NAGAR District- Katihar

Janaki Devi Wife of Rajesh Yadav R/o- Alampur, PS- Ajamnagar, Dist-
Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Singh, Advocate
For the Opposite Party/s : Ms.Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 17-01-2025 Heard Mr.Sanjeev Kumar Singh, learned counsel for
the petitioner and Ms.Asha Kumari, learned A.P.P. for the State.

2. The petitioner is apprehending her arrest in connection with Ajamnagar P.S.Case No.73 of 2024,FIR dated 23.02.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of three liters of foreign liquor.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. Petitioner is not named in the FIR and the name of the petitioner has been transpired during investigation on the basis that the petitioner is owner of the motorcycle in question. Learned counsel for the petitioner submits that it appears from the FIR itself that nothing has been recovered from conscious possession of the petitioner and he has been made accused in the present



case on the ground that the petitioner is owner of the motorcycle in question. In fact the petitioner is lady and husband of the petitioner has purchased the motorcycle in the name of the petitioner and she has not used the motorcycle in question and co-accused person, namely, Prakash Kumar Sah has been granted privilege of anticipatory bail by this Court vide order dated 07.08.2024 passed in Cr.Misc. No.47837 of 2024. 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 petitioners 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. Further submits that the recovery has been made from the motorcycle of the petitioner and apart from that, the petitioner carries one more case other than the present one of similar nature.

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, nothing has been recovered from conscious possession of the petitioner, petitioner has been made accused in the present case only on the ground that he is owner of one of the motorcycles in question and co-accused person, namely, Prakash Kumar Sah has been granted privilege of anticipatory bail by this Court, 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 Additional Sessions Judge Exclusive Excise Court No.2, Katihar in connection with Ajamnagar P.S.Case No.73 of 2024, 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:-

(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)

Nitesh/-

U		T	
---	--	---	--

