

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.88767 of 2024

Arising Out of PS. Case No.-141 Year-2024 Thana- BHELDI District- Saran

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Dhanmatiya Devi @ Dhanpatiya Devi W/o Dinesh Bhagat, R/o Village-
Kereyan, P.S- Bheldi, Distt.- Saran at Chapra.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Ms. Rajani Kumari, Advocate

For the Opposite Party/s : Ms. Asha Devi, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 08-01-2025 Heard Ms. Rajani Kumari, the learned counsel for

the petitioner and Ms. Asha Devi, the learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending her arrest in

connection with Bheldi PS Case No. 141 of 2024, FIR dated

20.04.2024, registered for the offences punishable under Section

30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 42 litres of country made liquor.

4. Learned counsel for the petitioner submits that

petitioner has clean antecedent and she has falsely been

implicated in the present case. He further submits that according

to the FIR and seizure list nothing has been recovered from the

conscious possession of the petitioner, rather the recovery has

been made from outside the house of the petitioner in the

bamboo orchard and petitioner has no concern at all with the



allegedly recovered liquor. He further submits that the petitioner has been made accused in the present case on the basis of suspicion and disclosure made by the apprehended co-accused person namely, Dinesh Bhagat. 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. The learned Additional Public Prosecutor for the State on the other hand 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 and circumstances and mainly the facts that petitioner has clean antecedent,



nothing has been recovered from conscious possession of the petitioner and name of petitioner transpired on the basis of disclosure made by apprehended co-accused person, let the petitioner, above-named, in the event of her arrest or surrender before the learned trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory 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 1st Special Judge Excise, Saran at Chapra, where the case is pending in connection with **Bheldi PS Case No. 141 of 2024**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:-

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on her absence on two consecutive dates without sufficient reason, her bail bond shall be cancelled by the learned trial Court.

(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 learned trial



Court 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 learned trial Court shall take steps 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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