

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89256 of 2024

Arising Out of PS. Case No.-275 Year-2024 Thana- SIDHWALIYA District- Gopalganj

Lalita Devi W/o Lalmohan Ram Resident of Village- Sahpur, PS- Sidhwaliya,
District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anand Vardhan, Adv.

For the Opposite Party/s : Mr. Rajesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 08-01-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends her arrest in connection with Sidhwaliya P.S. Case No. 275 of 2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2022.

3. The allegation against the petitioner is of involved in sale of illicit wine. The police on an information reached at the spot, however, noticing the police party, the petitioner succeeded in fleeing away, who was later on identified by the local people and the Chowkidar. The police recovered 5 liters of country made Chulai liquor from the spot.

4. Learned counsel for the petitioner drawing the attention of this Court to the FIR has contended that the alleged



recovery has been made from an open place behind the house of the petitioner, which is easily accessible to all. Only on account of the fact that the recovery has been made from nearby the house of the petitioner, on suspicion, his name has been implicated in this case, though he bears fair antecedent. It is further contended that there is serious infirmities in the search and seizure and the witnesses are none else but the Chowkidar of the police station. Since there is no recovery from the conscious and constructive possession of the petitioner, bar provided under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 is not applicable.

5. On the other hand, learned counsel for the State opposed the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from an open place, which is easily accessible to all and barring suspicion, there is no material suggesting complicity of the petitioner, coupled with his fair antecedent and the materials available on record, which are suggestive of no application of Section 76(2) of the Excise Act, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within



a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-XIII-cum-Special Excise Court No.I, Gopalganj in connection with Sidhwaliya P.S. Case No. 275 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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