

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3852 of 2025

Arising Out of PS. Case No.-123 Year-2023 Thana- ANDHRATHARHI District- Madhubani

Kalawati Devi @ Kalabati Devi Wife of Chandradeo Paswan @ Chandra Deo
Paswan @ Chandra Dev Paswan @ Chandar Paswan Resident of Village
Rajanpura, P.S. Andhratharhi, District Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Bharti

For the Opposite Party/s : Mr.Kumar Ranjit Ranjan

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 28-02-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to
make necessary correction in the cause title portion in the course
of the day.

3. The Petitioner is apprehending his arrest in
connection with Andhratharhi P.S Case No. 123/2023 dated
20.08.2023 for the offences punishable u/s 272 and 273 of the
I.P.C. and Section 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 8 litres of illicit
country-made liquor was recovered from the bush in front of the
house of the petitioner.

5. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent in which he is on bail as stated in para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The recovery is from an open place which is accessible to anyone. The other co-accused person has already been granted bail by this court *vide* order dated 22.01.2024 passed in Cr. Misc. No. 84281/2023. The petitioner is a lady. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

6. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

7. Considering the aforesaid facts and circumstances



of the case as well as the nature of allegation against the petitioner, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Madhubani in connection with Andhratharhi P.S Case No. 123/2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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