

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.8254 of 2024**

Arising Out of PS. Case No.-267 Year-2023 Thana- SUPPI District- Sitamarhi

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Kunu Patel @ Kunnu Kumar S/O Sogarath Patel @ Ram Sogarath Patel @  
Swarath Patel R/O Village- Rasulpur Pitaunjia, P.S- Mejorganj, Distt.-  
Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Ranjeet Kumar Mishra

For the Opposite Party/s : Mr.Rabindra Kumar

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

**ORAL ORDER**

2      21-02-2024                      Learned counsel for the petitioner is permitted to  
  
remove the defect(s), as pointed out by the office, if any, within  
  
a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned  
  
Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in  
  
connection with Suppi P.S. Case No. 267 of 2023, dated  
  
17.10.2023 for the offences punishable under Section 30(a) of  
  
the Bihar Prohibition and Excise Act.

4. As per prosecution case, total 405 litres of Nepali  
  
Saufi liquor was recovered from the four motorcycles.

5. Learned counsel for the petitioner has submitted  
  
that the petitioner is innocent and has falsely been implicated in



this case. The petitioner has two criminal antecedents as stated in para 3 of the bail petition in which he is on bail. The name of the petitioner has transpired on the basis of confessional statement of apprehended co-accused Raja Ram Kumar. No incriminating material has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. 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 APP 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, Sitamarhi/concerned court in connection with Suppi P.S. Case No. 267 of 2023 subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

**(Chandra Prakash Singh, J)**

Ranjeet/-

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