

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.7257 of 2024**

Arising Out of PS. Case No.-232 Year-2023 Thana- BELA District- Sitamarhi

Rahul Chaurasiya @ Rahul Kumar S/O- Shiv Dev Chaurasiya R/O- Village-  
Sirsiya Bazar Ward No.- 14, P.S.- Bela, Dist.- Sitamarhi.

... .. Petitioner/s

Versus

The State Of Bihar Bihar, Patna

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Santosh Kumar, Adv.

For the Opposite Party/s : Mr.Khurshid Anwar, APP

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

ORAL ORDER

2      17-02-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in  
connection with Bela P.S. Case No. 232 of 2023 dated  
11.10.2023 for the offence/s punishable u/s 414 read with  
section 34 of the IPC and 30(a) of the Bihar Prohibition and  
Excise Act.

3. As per the prosecution case, total 53.7 litres of  
illicit Nepali Saufi liquor was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted  
that the petitioner is innocent and has falsely been implicated in  
this case. No incriminating material has been recovered from the  
conscious possession of the petitioner. The petitioner is neither



the owner nor the driver of the said motorcycle. The petitioner has no concern with the alleged recovery. The apprehended co-accused person disclosed the name of the petitioner. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that 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 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.

5. 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.

6. Considering the aforesaid facts and circumstances of the case as well as the material available on record, 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 in connection with Bela P.S. Case No. 232 of 2023,  
subject to conditions as laid down under section 438(2) of the  
Code of Criminal Procedure.

7. The application stands allowed.

**(Chandra Prakash Singh, J)**

guddukr/-

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