

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.56574 of 2024**

Arising Out of PS. Case No.-90 Year-2023 Thana- FATEHPUR District- Gaya

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Gaurav Kumar Son of Ramanand Sharma R/O Vill.- Lodipur, P.S.- Konch,  
Dist.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

|                            |   |                                    |
|----------------------------|---|------------------------------------|
| For the Petitioner/s       | : | Mr. Ravindra Kumar, Advocate       |
|                            |   | Ms. Divyani Shekhar, Advocate      |
|                            |   | Mr. Sandeep Kumar Pandey, Advocate |
| For the Opposite Party/s : |   | Mr. Upendra Kumar, APP             |

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL ORDER**

2      06-08-2024                      Heard Ld. counsel for the Petitioner and Ld. APP for  
the State.

2. The Petitioner seeks anticipatory bail, apprehending his arrest, in connection with Fatehpur P.S. Case No.90 of 2023, dated 05.02.2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. As per allegation, 150 liters of illicit mahua liquor has been recovered from the motorcycle of the Petitioner.

4. Ld. counsel for the Petitioner submits that the Petitioner is innocent and has falsely been implicated in this case. He further submits that the Petitioner is in no way connected with the alleged offence. He was neither driving the



vehicle nor was he aware of misuse of the vehicle. Hence, no offence is made out against the Petitioner and bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 does not apply against him and hence, his anticipatory bail application is maintainable. He further submits that similarly situated co-accused, Raju Kumar has already been enlarged on bail by this Court vide order dated 10.05.2023 passed in Cr. Misc No. 21354 of 2023. He also refers to and relies upon **Sweta Kumari Vs. State of Bihar (Cr. Appeal No. 626 of 2022)**, wherein Hon'ble Supreme Court has in similar situation, observed that in such situation, anticipatory bail should not be denied to the Petitioner in view of Article 21 of the Constitution of India.

5. It is also stated in paragraph no. 2 of the bail petition that the Petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

6. It has further been stated paragraph no.3 of the bail petition that the Petitioner has no criminal antecedents.

7. Ld. APP for the State opposes the prayer of the Petitioner for anticipatory bail.

8. Considering the aforesaid facts and circumstances, particularly the ratio of Sweta Kumari Vs. State of Bihar (Cr. Appeal No. 626 of 2022), **this petition is allowed**, directing the



Petitioner, above-named, to be enlarged on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Exclusive Excise Court No. IV, Gaya in connection with Fatehpur P.S. Case No.90 of 2023, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court below that the Petitioner has any criminal antecedents, Ld. court below shall cancel the bail bonds of the Petitioner after hearing him and getting satisfied that the Petitioner has concealed his criminal antecedents despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the Petitioner.

**(Jitendra Kumar, J.)**

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