

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16812 of 2025

Arising Out of PS. Case No.-480 Year-2024 Thana- RAXAUL District- East Champaran

1. Gopal Rai S/o Late Ramdhari Rai R/o Vill.- Siswa, P.S.- Raxaul, District- East Champaran
2. Munna Rai S/o Gopal Rai R/o Vill.- Siswa, P.S.- Raxual, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhannjay Kumar Ii

For the Opposite Party/s : Ms. Sucheta Yadav

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

2 02-04-2025 Heard learned Counsel for the petitioners and
learned Additional Public Prosecutor for the State.

2. The present application is for grant of anticipatory bail, in connection with Raxual P.S. Case No.480 of 2024 for offences under Sections 109, 132, 352, 352(2), 3(5) of the B.N.S and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. From the perusal of the First Information Report and also the seizure list, that a total of 648 liters of Nepali liquor was recovered from the Scorpio vehicle at the place of occurrence and two persons, namely Devanand Kumar and Amri Sahani, were arrested with the same.

4. Learned counsel for the petitioners submits that the



name of the petitioners have transpired in the case on account of the confessional statement of the arrested accused persons that the petitioners have the involvement in the said liquor business. Learned counsel for the petitioners submits that there is no recovery from the conscious possession of the petitioners and the name of the petitioners have transpired only on the basis of the confessional statement of the accused in the case. Learned counsel for the petitioner also submits that in the circumstances, provisions of Bihar Prohibition and Excise Act, 2016, would not be applicable as against the petitioner and hence the bar under Section 76(2) of the said Act would not act as an impediment to grant of anticipatory bail.

5. Learned APP, submits that besides the provision of the Excise Act, Section 109 of the B.N.S. has also been leveled. However, it would appear that there is no allegation made in the First Information Report, which would make out a case under Section 109 of the B.N.S. However, it also remains a fact that the petitioners are not said to be present at the scene of occurrence and hence, there could have been no involvement of the provision leveled in the First Information Report. Learned APP also pointed out that both the petitioners have one antecedent each, but, however, in response to the same, it has



been submitted by learned counsel for the petitioners that both the petitioners are on bail in the said case.

6. Considering the above facts and circumstances, let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Excise Court No.3, East Chamaparan at Motihari, in connection with Raxual P.S. Case No.480 of 2024, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure/Section 482 (2) of the B.N.S.S., 2023 and and subject to the further condition that:-

(i) the petitioners shall co-operate in the investigation/trial.

(ii) the learned Court would, however, verify the criminal antecedent of the petitioners before releasing him on bail.

(Soni Shrivastava, J)

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