

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48416 of 2026

Arising Out of PS. Case No.-104 Year-2026 Thana- DUMARIAGHAT District- East
Champaran

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1. Jitendra Mahto S/O Baran Mahto Resident of Village- Sagar Churaman, P.S- Kesariya, Dist.- East Champaran.
 2. Pawan Mahto S/O Jitendra Mahto Resident of Village- Sagar Churaman, P.S- Kesariya, Dist.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar

For the Opposite Party/s : Mr.Nityanand

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 22-07-2026 Heard Mr. Abhishek Kumar, learned Advocate for the

petitioners and learned Additional Public Prosecutor for the

State.

2. The petitioners are apprehending their arrest in connection with Dumariyaghat P.S. Case No. 104 of 2026, registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

3. The allegation against the petitioners is of engaged in sale of illicit wine. Upon the aforesaid information, the police conducted raid, however, noticing the police party, two persons succeeded in fleeing away. Later on, they were identified as petitioners. In course of search, total 17 litres of country made



liquor was recovered.

4.Learned Advocate for the petitioners submitted that admittedly, recovery has been made from an open place easily accessible to all. Only on account of the past criminal antecedent of the petitioners, their names have been implicated in this case, however, without there being any cogent material. It is further contended that there is complete violation of Sections 103(4) and 105 of the BNSS.

5. On the other hand, learned Advocate for the State vehemently opposed the bail application and submitted that the criminal antecedent of petitioner no. 1 clearly suggests that he is an habitual offender and in such circumstances extending the privilege of anticipatory bail would not be in the interest of justice.

6. Having considered the submissions advanced by the learned Advocates for the respective parties and taking note of the criminal antecedent of the petitioner no. 1, which is 12 in number, this Court is not acceded to the prayer for grant of anticipatory bail of the petitioner no. 1. Accordingly, his prayer for anticipatory bail stands rejected.

7. So far petitioner no. 2 is concerned, considering the fact that the alleged recovery has been made from an open



place, besides his suspicious identification and the lack of materials which attract the rigors to maintain the anticipatory bail as well as defiance of the statutory prescription of BNSS, let the petitioner No. 2 abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court No. 3, I/c Civil Court, East Champaran at Motihari in connection with Dumariyaghat P.S. Case No. 104 of 2026, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioner No. 2.

(Harish Kumar, J)

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