

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50095 of 2014

Arising Out of PS.Case No. -235 Year- 2014 Thana -TEKARI District- GAYA

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1. Achchutanand Chaudhary son of Late Tapeswar Chaudhary resident of village - Dumarsan, Police Station - Tekari and District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2, Advocate

For the Opposite Party/s : Mr. B.N.P.Sinha(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 09-04-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner apprehends his arrest in Tekari P.S. Case No. 235 of 2014, registered for the offences punishable under Section 414 of the Indian Penal Code, 47(A) of the Excise Act and 3, 5, 18 of the Bihar State Excise (Mahua Flowers) Act.

Learned counsel for the petitioner submits that the so far Section 47(A) of the Excise Act is concerned, there has been no recovery whatsoever of any item of liquor so as to attract the provisions of the Excise Act. Learned counsel for the petitioner submits that the recovery, if at all, is made of Mahua Flowers cannot be said to be stolen commodities, so as to attract the provisions of Section 414 of the Indian Penal Code. Furthermore, the provisions of the Mahua Flowers Act are as such bailable and the petitioner is thus entitled to the benefit of

anticipatory bail. Learned counsel for the petitioner has also drawn my attention to the seizure list, in which it has been indicated that the P.S. case number has been indicated therein in the top corner, whereas it is unforeseen that such an entry would be made in the seizure list at the first instance. Learned counsel for the petitioner further submits that in any view of the matter, the alleged recovery of Mahua Flowers was not made from his conscious possession and there was a delayed of about six days in placing the matter before the concerned court.

Considering the aforesaid submissions and also the fact that the provisions of the Bihar State Excise (Mahua Flowers) Act are bailable, let the above named petitioner, in the event of his arrest or surrender before the court below within a period of two weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Ist Class, Gaya in connection with Tekari P.S. Case No. 235 of 2014, subject to the conditions as laid down under Section 438(2) of the Indian Penal Code.

(Anjana Mishra, J)

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