

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22745 of 2019

Arising Out of PS. Case No.-57 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

=====

Tuntun Yadav @ Tunu Kumar (Male), aged about 30 years, Son of Krishna Yadav
Resident of Village- Khushikewal Kala, Police Station- Hunterganj, District- Chatra
(Jharkhand)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

=====

Appearance :

For the Petitioner : Mr. Manish Kumar No. 2, Advocate
For the State : Mr. J.K. Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 10-04-2019 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 30(c) and 56(B) of the Bihar Prohibition and Excise Act, 2016 and Section 2(e), 3, 5(b) of Bihar Excise (Mahua Flowers) Rules, 2006 registered in connection with Excise Case No. 57 of 2019.

3. It is submitted that the petitioner has been falsely implicated merely because he happens to be the owner of the vehicle from which 450 Kg. of Mahua flowers have been seized. It is further submitted that 'Mahua Flower' does not fall within the meaning of "intoxicant" as defined under Section 2(40) of the Bihar Prohibition and Excise Act, 2016. It is further submitted that no offence under the provisions of the said Act is made out on the basis of allegations contained in the F.I.R. and as such there is no bar to grant of anticipatory bail, having regard to the decision of the Division Bench of this Court in Cr. Misc. No. 21578 of 2017 (Manish Kumar @ Lokesh Kumr Vs. The State of Bihar).

4. Considering, however, that the petitioner has not shown that he had any licence for the possession or sale of Mahua flowers in excess of permissible limits, default of which is punishable under the



provisions of the Bihar Prohibition and Excise Act, 2016, this Court is of the view that the petition is not maintainable in terms of Section 76(2) of the said Act. The anticipatory bail petition stands dismissed.

5. If the petitioner surrenders and seeks regular bail before the learned trial Court the same shall be considered on its own merit in accordance with law on the same day and without being prejudiced by any observation in the present order.

(Vikash Jain, J)

BT/-

U		T	
---	--	---	--

