

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79756 of 2018**

Arising Out of PS. Case No.-124 Year-2018 Thana- MAGADH UNIVERSITY
District- Gaya

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Kailu Mian @ Murtuja Alam S/o Muslim Mian R/v-Moula Nagar, P.S-
Magadh University, Distt.-Gaya.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Anil Kumar Saxena, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 07-03-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Section 30(D) Prohibition of Bihar Excise Act, 2016
(hereinafter referred to as 'the Excise Act, 2016') registered in
connection with Magadh University P.S. Case No. 124 of 2018.

3. It is submitted that the petitioner has been falsely
implicated merely because he happens to be the owner of the
vehicle from which 1000 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 Kumar 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, default of which is punishable under the provisions of the Excise Act, 2016, this Court is not inclined to grant anticipatory bail to the petitioner. 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 merits in accordance with law and without being prejudiced by any observation in the present order.

(Vikash Jain, J)

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