

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.57252 of 2019**

Arising Out of PS. Case No.-123 Year-2019 Thana- BELAGANJ District- Gaya

SUNITA DEVI Wife of Chhotelal Saw Resident of Village-Belaganj, P.S-  
Belaganj, District-Gaya (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Arvind Kumar

For the Opposite Party/s : Mr.Parmanand Kumar

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

3      13-09-2019      The petitioner apprehends her arrest in connection with Belaganj P.S.Case No. 123 of 2019 registered under Sections 30(a) of the Bihar Prohibition and Excise Act (hereinafter referred to as the 'Act') and Sections 2(c), 3, 5(b), 18 and 42 of the Bihar Excise (Mahua Flowers) Rules, 2006.

Allegation against the petitioner, as per FIR, is that one motorcycle bearing No. BR-02X-1483 was intercepted by the police from which Mahua Flowers in total 20 Kg was recovered and petitioner has been made accused on the basis of that she is owner of the motorcycle in question.

Learned counsel for the petitioner submits that petitioner has merely been dragged in this case on the basis of fact that she is owner of the motorcycle, which was seized along with Mahua flowers weighing more than 05 Kg. He submits that said



motorcycle was being driven by one Sonu Kumar and petitioner was not having any knowledge about the said recovered article i.e., Mahua Flowers. Learned counsel relied upon order dated 09.07.2019 passed in CWJC No. 23163 of 2018, submits that the Division Bench of this Hon'ble Court, considering the issue regarding recovery of Mahua Flowers exceeding 5 Kg *vis a vis* under the Bihar Prohibition and Excise Act, for such recovery, it has come to the finding that "proceeding initiated against the petitioner for alleged recovery of Mahua Flowers exceeding 5 Kg which lies at the foundation for such penal action under 'the Act' and the 'Mahua Flowers Rules' absolutely without jurisdiction because we neither find such enabling powers in the respondents to initiate any action under 'the Bihar Mahua Flowers Rules' nor 'the Act' enables the respondents to initiate action on mere possession of Mahua Flowers, until, it is converted either into plain or spiced spirit as clearly defined under Section 2(16) of 'the Act'."

After having heard learned counsel for the parties and taking into consideration the fact and the law laid down by this Court in CWJC No. 23163 of 2018, I am inclined to grant anticipatory bail to the petitioner.

Accordingly, let the petitioner, abovenamed, in the event



of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, Gaya in connection with Belaganj P.S.Case No. 123 of 2019; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

**(Anil Kumar Sinha, J)**

sujit/-

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