

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72533 of 2019

Arising Out of PS. Case No.-667 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Anita Devi, W/O Arjun Choudhary R/O Village - Barachatti Bazar, P.S. -
Barachatti, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Zainul Abedin

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 04-12-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner seeks regular bail in connection with Excise
Case No.667 of 2019, registered for the offences punishable
under Section 30(a) of the Bihar Prohibition & Excise Act, 2016
and Rule 2E, 3, 5B and 18 of Mahua Flower Rule, 2016.

The allegation against the petitioner is that Excise
official intercepted the tempo and recovered a total quantity of
100 kg. of Mahua flower from the said tempo. The petitioner
was also traveling by the said tempo.

Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in this case merely on the
basis of the fact that she was traveling on the tempo from which



Mahua flower has been recovered. Learned counsel further submits that the question with regard to the fact that the recovery of Mahua flower exceeding 5 kg can be a subject matter of proceeding under the Excise Act was considered by a Division Bench of this court in C.W.J.C. No.23163 of 2018 and Division Bench of this court has held as follows :-

“.....we find the the proceeding initiated against the petitioners 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 clealry defined under Section 2(16) of ‘the Act’.”

Having regard to the submissions made by the parties and in view of the Judgment passed by Division Bench, I am inclined to grant regular bail to the petitioner.



Accordingly, let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 5,000/- (five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Gaya, in connection with Excise Case No.667 of 2019.

(Anil Kumar Sinha, J)

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