

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 9876 of 2020

Arising Out of PS. Case No.-20 Year-2020 Thana- BARACHATTI District- Gaya

1. Sandeep Yadav, Son of Ranjan Yadav Resident of Village-Masoundha, P.S.-
Mohanpur, District-Gaya.
2. Ramjee Yadav, Son of Nemdhari Yadav Resident of Village-Anjnama, P.S.-
Mohanpur, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivendra Prasad

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 03-03-2020 Heard learned counsels for the petitioners and the
State.

The petitioners are apprehending arrest in a case registered for the offence punishable under Section 30(d) of the Bihar Prohibition and Excise Act, as amended by Act 8 of 2018.

The prosecution case is that the informant being ASI of police, during patrolling, saw three motorcycles and when the informant reached there, all the accused persons escaped from the scene but all the three motorcycles were seized and from the seized motorcycles, total 150 kg of Mahua flower were



recovered. It is further alleged that out of three motorcycles, the petitioners are the owner of the two motorcycles.

It is submitted by the learned counsel for the petitioner that recovery of the Mahua flower does not constitutes an offence under the provision of the Excise Act. Moreover, the petitioners were not apprehended from the spot. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that from the motorcycle of the petitioners, recovery of Mahua flower has been made and on seeing the police, the petitioners escaped from the scene.

On seizure of 150 kg of Mahua Flower, the case has been instituted under Section 30 (B) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment 8 of 2018. Section 2 (16) defines country made or traditional liquor which includes the fermented Mahua and that does not include Mahua flower, though Rule-3 of the Mahua Flowers Rules, 2007 mandates the possession of maximum 5 kg of Mahua without the licence and prohibition of more than 5 kg of Mahua Flower Rules does not incur any penalty under the Rules. The Mahua Flower Rules has been moved under Section 19 (7) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment



Act 8 of 2018.

Considering the fact that recovery of Mahua flower does constitute an offence under the provisions of Bihar Prohibition and Excise Act, 2016 as amended by Amendment 8 of 2018 and the petitioners were not apprehended from the spot, coupled with the fact that the petitioners are having no criminal antecedent, let the above named petitioners be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Special Judge Excise, Gaya, in connection with Barachatty (Mohanpur) P.S. Case No. 20 of 2020 subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J.)

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