

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23960 of 2020

Arising Out of PS. Case No.-133 Year-2020 Thana- SHERGHATI District- Gaya

DINESH CHOUDHARY S/o Harischandra Choudhary Resident of Village-
Ghargauni, P.S.- Dobhi, Distt- Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sudhir Kumar Sinha
For the Opposite Party/s : Mr. Ram Sumiran Rai

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 18-09-2020 Heard learned Counsel for the petitioner and learned

Additional Public Prosecutor representing the State, through

Video Conferencing.

The petitioner seeks regular bail in connection with
Sherghati Police Station Case No. 133 of 2020, registered for
the offence punishable under Section 414/34 of the Indian Penal
Code and Section 30 (d) of the Bihar Prohibition and Excise
Act, 2016.

The allegation against the petitioner is that the police
intercepted one pick-up van and recovered 2400 kgs. of Mahua
Flowers.

Learned Counsel for the petitioner submits that the
petitioner has not committed any offence in the manner alleged
and is having no criminal antecedent. He further submits that



the petitioner is the driver of the said pick-up van and was not aware about the goods being transported. He further submits that a Division Bench of this Court, in CWJC No. 23163 of 2018 and its analogous cases, has held that proceeding initiated against a person under the Excise Act for recovery of Mahua flowers exceeding 5 Kg is without jurisdiction inasmuch as there is no enabling powers to the prosecution to initiate any action under the Bihar Mahua Flowers Rules and the prosecution can only be launched if Mahua flowers are 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 that the petitioner has got no criminal antecedent, he is in custody since 19.03.2020, he is not the owner of the pick-up van and further the Division Bench of this Court has held that for recovery of Mahua flowers, no prosecution can be launched under the Excise Act, as such I am inclined to grant bail to the petitioner.

This application is allowed.

Accordingly, let the petitioner, above named, be released on bail, upon furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the



satisfaction of learned Special Judge, Excise, Gaya, in connection with Sherghati Police Station Case No. 133 of 2020.

It is made clear that at the time of furnishing bail bonds, all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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