

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28566 of 2020

Arising Out of PS. Case No.-56 Year-2020 Thana- GURUA District- Gaya

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ASHOK KUMAR Son of Shiv Kumar Saw Resident of Village - Rajan, P.S.-
Gurua, District – Gaya Petitioner/s

Versus

THE STATE OF BIHAR Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vinod Kumar

For the Opposite Party/s : Mr. Nityanand

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 23-11-2020 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
Gurua Police Station Case No. 56 of 2020, registered for the
offence punishable under Section 30 (d) of the Bihar Prohibition
and Excise Act, 2016.

The allegation against the petitioner is that the police
raided the house of the petitioner and recovered 1218 kgs. of
Mahua Flowers kept in 29 sacks.

Learned Counsel for the petitioner submits that the
petitioner has not committed any offence in the manner alleged.
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 is in custody since 30.03.2020 and 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 Gurua Police Station Case No. 56 of 2020.

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

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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