

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39331 of 2020**

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

Chandan Sao @ Chandan Kumar, aged about 28 years, male, Son of Late
Sanjay Sao @ Sanjay Kumar Gupta Resident Of Village- Gosaindih, P.S.-
Hunterganj, District- Chatra (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Javed Jafar Khan, Advocate
For the State : Mr. Sanjay Kumar Tiwary, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 05-10-2021

The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner, which was allowed.

2. Heard Mr. Md. Javed Jafar Khan, learned counsel for the petitioner and Mr. Sanjay Kumar Tiwary, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Sherghati (Dhobi) PS Case No. 133 of 2020 dated 18.03.2020, instituted under Sections 414/34 of the Indian Penal Code and



30(d) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

4. The allegation against the petitioner is based on recovery of *mahua* flower from a truck caught by the police, upon disclosure by the driver that the *mahua* flower has been loaded from the godown of the petitioner at Hunterganj, which is in the State of Jharkhand.

5. Learned counsel for the petitioner submitted that in the State of Jharkhand *mahua* flower is not a banned item and even if it is accepted that it was loaded from the godown of the petitioner, no offence can either be made out or the petitioner charged with the same. It was further submitted that the petitioner has no other criminal antecedent.

6. Learned APP submitted that the driver had stated that the *mahua* flower was loaded from the godown of the petitioner. However, it was not controverted that such trade in *mahua* flower not being banned in the State of Jharkhand and as per the FIR itself, the *mahua* flower were loaded in the State of Jharkhand, the allegation against the petitioner would not come under the purview of the Act.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties,



since the trade in *mahua* flower not being banned in the State of Jharkhand and as per the FIR itself loading being from the godown of the petitioner in the State of Jharkhand and also the petitioner not having any other criminal antecedent, the Court is inclined to allow the prayer for pre-arrest bail.

8. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Special Excise Judge, Gaya in Sherghati (Dhobi) PS Case No. 133 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner, and (iii) that the petitioner shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the



notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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