

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34204 of 2021

Arising Out of PS. Case No.-31 Year-2021 Thana- KATORIYA District- Banka

SUDHIR MODI S/O DULARCHAND MODI @ DULCHAND MODI
RESIDENT OF VILLAGE TARABAD POLICE STATION RIKHIYA,
DISTRICT-DEOGHAR (JHARKHAND). Petitioner/s

Versus

THE STATE OF BIHAR Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Nandad Prasad

For the Opposite Party/s : Mr.Khurshid Anwar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 03-01-2022 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor representing the State.

The petitioner seeks regular bail in connection with Katoriya Police Station Case No. 31 of 2021, registered for the offence punishable under Section 56 (D) of the Bihar Prohibition and Excise Act, 2016 and Rule 3 of Bihar Mahua Flower Rules.

The allegation against the petitioner is that the police intercepted one tempo, which was being driven by the petitioner and recovered 200 kgs. of Mahua Flowers kept in five sacks from the tempo in question.

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 20.02.2021 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, accordingly, allowed.

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 2nd Additional Sessions Judge, Banka, in connection with Katoriya Police Station Case No. 31 of 2021.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

U	✓	T	✓
---	---	---	---

