

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51450 of 2024

Arising Out of PS. Case No.-15 Year-2011 Thana- GOVERNMENT OFFICIAL COMP.
District- Katihar

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Tabarak Ali @ Md. Tabarak, Son Of Late Md. Allauddin Resident Of Village
- Lalbagh, P.S. - Manihari, District - Kaithar (Bihar)

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Tiwary
For the Opposite Party/s : Dr. Ajeet Kumar

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 30-07-2024 1. Heard learned counsel for the petitioner and
learned APP for the State.
2. The petitioner seeks bail in anticipation of his
arrest in a case registered for the offences punishable under
Sections 47(a)(7) read with 13(F), 48 of the Excise Act and Rule
2(e), 3, 5(B), 18 of Bihar State Mahua Phool Rule, 2006.
3. The learned counsel for the petitioner submits that
the petitioner has antecedent of two cases and the allegation is
of recovery of 1400 kg of mahua flower from the house of the
petitioner.
4. The learned counsel for the petitioner submits that
petitioner was not arrested from the spot, as such, nothing was
recovered from his conscious possession and after Amendment



in the Excise Act, 2018, the concept of deemed possession and presumed offender has been done away with and even the house, which is a joint family property and thus, it cannot be alleged with certainty that it was the petitioner, who had kept the mahua flower in the house or the mahua flower kept in the house was within his knowledge and he came to be implicated based on secret information, which is the easiest way to implicate someone.

5. Learned A.P.P. opposes the anticipatory bail application.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge Excise Court No.1, Katihar in connection with CI Case No.15 of 2011, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

8. It is made clear that the learned trial Court before



accepting the bail bonds of the petitioner shall verify the criminal antecedent of the petitioner and in the event, if it is found that petitioner has antecedent of more than two cases, in that event, the present anticipatory bail application shall not be given effect to.

(Satyavrat Verma, J)

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