

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.198 of 2024

Arising Out of PS. Case No.-249 Year-2023 Thana- AMBA District- Aurangabad

Ravi Kumar Son of Umesh Mehta Resident of Village Loha Bigha Baliya P.S
Amba District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Singh
For the Opposite Party/s : Mr.Arun Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 224-01-2024
1. Heard learned Counsel for the petitioner and learned Additional Public Prosecutor representing the State.

2. This application, for grant of anticipatory bail, arises out of Amba Police Station Case No. 249 of 2023, dated 06.11.2023, registered for the offence punishable under Section 30 (C) of the Bihar Prohibition and Excise Act, 2016.

3. The prosecution case, as per the First Information Report, is that the police, on the basis of secret information that two persons were carrying illicit mahua flowers on motorcycle, intercepted two motorcycles, and on seeing the police, the three persons, who were present on two motorcycle, tried to flee away, but the police arrested one person, who disclosed his name as Shashiranjan Pandey.

On search, the police recovered 80 kgs. of Mahua Flowers kept in two sacks on one of the motorcycles, having registration no. BR 26E/7569.

4. Learned Counsel for the petitioner submits that the petitioner has not committed any offence in the manner alleged and he has been made accused by the police in this case because he happened to be the owner of the motorcycle, bearing registration no. JH 03AA/9075, from which no incriminating article has been recovered by the police. 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.
5. After having heard learned counsel for the parties and taking into consideration the fact that a 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 the petitioner privilege of
anticipatory bail.

- 6. This application is, accordingly, allowed.
- 7. Let the petitioner, above named, in the event of his arrest
or surrender before the Court below within a period of
four weeks from today, be released on bail on 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 Court No. 1, Aurangabad, in
connection with Amba Police Station Case No. 249 of
2023, subject to the condition laid down under Section
438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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