

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86269 of 2024

Arising Out of PS. Case No.-69 Year-2024 Thana- DHIBRA District- Aurangabad

Ravindra Kumar S/o- Kailash Yadav Village-Turi, P.S-Hariharganj, District-
Palamu (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukul Kumari
For the Opposite Party/s : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 16-01-2025 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 Dhibra Police Station Case No. 69 of 2024, dated 20.10.2024, 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, during vehicle check, saw a person fleeing away after seeing the police on his motorcycle and on chase by the police, the rider of the motorcycle fled away leaving behind the motorcycle. On search, the police recovered 100 kgs. of Mahua Flowers kept in two sacks on the motorcycles, having registration no. JH



03AK/7201.

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 registered owner of the motorcycle, bearing registration no. JH 03AKA/7201. 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. II, Aurangabad, in connection with Dhibra Police Station Case No. 69 of 2024, 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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