

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51752 of 2014

Arising Out of PS.Case No. -91 Year- 2014 Thana -AMAS District- GAYA

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1. Suraj Aruk Son of Hanumant Aruk Resident of Village - Koera, P.S.-
Koera, District - Kemjhar (Orisa)

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Sinha

For the Opposite Party/s : Mr. Bhanu Pratap Singh (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 03-03-2015 The present application under sections 439 and 440 of the Code of Criminal Procedure has been filed for grant of bail in connection with Amas P.S.Case No. 91 of 2014 registered for the offences punishable under sections 25(1-b), 26(2), 35 of the Arms Act, 17 of Criminal Law Amendment Act as well as sections 14 and 15 of the Unlawful Activities (Prevention) Act, 1967.

In view of the law laid down by a Division Bench of this Court vide order dated 4th August, 2014 passed in **Criminal Writ Jurisdiction Case No.487 of 2014** in the matter of **AASIF P.K. @ MD. AARIPHA @ AASIF @ MD. AASIPHA @ MD. AASIF @ AARIF Vs. THE STATE OF BIHAR & ORS.**, the present application for bail is not maintainable. In the aforesaid judgment, the Division Bench has categorically held that, in cases

arising out of offences punishable under the Unlawful Activities (Prevention) Act, 1967, High Court cannot invoke its powers under Section 439 of the Code of Criminal Procedure to grant bail if it has been refused by the court of Sessions. The Division Bench has further held that if the bail has been refused by the court of Sessions, the aggrieved party may prefer an appeal in terms of section 21 of NIA Act to the High Court. Such an appeal has to be heard by a Division Bench of the High Court and in such an appeal, merit of the order, granting or refusing bail, can be questioned.

Accordingly, the present application is disposed of as not maintainable.

(Ashwani Kumar Singh, J)

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