

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42890 of 2014

Arising out of P.S. Case No. -16 Year- 2012 Thana -C.B.I
CASE District- PATNA

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Arvind Kumar Choudhary Son of Late Biyog Lal Choudhary R/o
House No. G-68, Ground Floor, Lajpat Nagar II, Delhi -110 024.

.... Petitioner/s

Versus

The Union of India through the Superintendent of Police, Central
Bureau of Investigation, Circular Road, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Adv.

For the Opposite Party/s : Mr. Bipin Kumar Sinha, SC/CBI.

Mr. Sanjay Kumar, Adv. for CBI.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 21-05-2015

The Petitioner seeks quashing of the order dated
28.02.2014 passed by the Special Judge, CBI 1st , Patna
in Special Case No. 9 of 2012 arising out of R.C. 16A of
2012.

It has been submitted on behalf of the Petitioner
that he resides permanently in Delhi and it would be
difficult for him to come on each date of the case to Patna
and, hence, he be permitted to appear through his
Counsel.

On the other hand, the Counsel for the CBI
submits that the Petitioner's prayer for anticipatory bail
was rejected upto the Hon'ble Supreme Court with
direction to him to surrender within four weeks. However,

he did not do so instead and has filed an application for exemption under Section 205 Cr.P.C.

There is no doubt that the scope of Section 205 Cr.P.C. and one under Sections 438, 439 and 440 Cr.P.C. are separate and distinct and even if one of the processes has been exhausted recourse can be taken to the other. Hence, Petitioner's prayer for anticipatory bail being rejected by the Hon'ble Supreme Court would not come in the way of entertaining an application under Section 205 Cr.P.C. However, I find that there is direction of the Hon'ble Supreme Court to the Petitioner to surrender within four weeks and hence it would be difficult for this Court to entertain this application which will go contrary to the direction.

Hence, the application is disposed off with liberty to the Petitioner to avail his other remedies in accordance with law.

(Anjana Prakash, J.)

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