

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13055 of 2016

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1. Sindhu Ratan Kul Bhaskar S/o late Sindhu Kumar Sinha Resident of
 Indira Nilay, Behind Vindhyachal Apartment , Boring road, Patna-1

.... Petitioner/s

Versus

1. The State of Bihar through CBI.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bal Bhushan Choudhary

For the Opposite Party/s Mr. Sanjay Kumar (SC, CBI)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

02/ 31.03.2016

Heard learned counsel for the petitioner as well as learned

Addl. Public Prosecutor for the State.

Petitioner seeks exemption from his personal appearance before the trial court for eight months in Special case no. 4 of 2001 arising out of R.C. case no. 7A of 2001 because while granting bail to the petitioner, a coordinate bench of this court vide order dated 23.11.2006 passed in Cr. Misc. no.40359/2006 directed the petitioner to appear before the trial court on each and every date without fail and in case of his absence even on a single day without showing any sufficient cause or without the permission of the court, trial court was granted liberty to cancel the bail bonds of the petitioner.

The aforesaid order was modified by a coordinate bench of this court vide order dated 11.12.2012 passed in Cr. Misc. no.42544/2012 granting liberty to the petitioner to remain absent in person from proceeding on four consecutive dates.

Again, petitioner has come before this court expressing his

difficulty to attend the trial court in person on each and every date on the ground that the petitioner has to go to abroad in connection with his work.

The submission on behalf of the petitioner is that the petitioner has to go to abroad in connection with his work and he shall not be available in country for near about eight months and, therefore, the petitioner should be exempted from attending the trial court in person.

There is provision of section 317 (2) of the Cr.P.C for representation of an accused in course of trial and admittedly, in this case, petitioner is attending the trial court since 2006 i.e. for more than ten years but up till now, prosecution could not succeed to conclude the trial of the petitioner and as per information provided on behalf of the petitioner up till now, not a single prosecution witness could be examined.

No doubt, this court vide order dated 23.11.2006 passed in Cr. Misc. no.40359/2006 imposed the above stated condition on the petitioner but while imposing the aforesaid condition, this court was not under impression that trial of the petitioner shall linger for more than ten years and, therefore, in my view, petitioner has rightly prayed for modification of order dated 23.11.2006 passed in Cr. Misc. no.40359/2006 as well as order dated 11.12.2012 passed in Cr. Misc. no.42544/2012.

On the basis of the aforesaid discussions, the above stated orders are modified to this extent that the petitioner is exempted to appear before the trial court in person on each and every date and the



petitioner may file his attendance before trial court through his learned counsel under section 317 (2) of the Cr. P.C.

However, it is made clear that if trial court feels that the personal appearance of the petitioner is necessary at any stage of the case, the trial court may direct the petitioner to appear before the court in person.

With the aforesaid observations, this petition stands disposed of.

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(Hemant Kumar Srivastava,J)

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