

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1149 of 2016

Arising Out of PS.Case No. -117 Year- 2016 Thana -RANIGANJ District- ARRARIA

- =====
1. Kalanand Singh @ Kailu Singh, son of Uday Narayan Singh
 2. Prabhakar Singh, son of Ramdeo Singh
 3. Kundan Singh, son of Nand Kishore Singh, all resident of village-Narki,
Police Station-Raniganj, District-Araria.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Prasad Singh-Sr. Advocate
Mr. Mukesh Kumar Rana-Advocate

For the Respondent/s : Mr. Sri Sadanand Paswan-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

05 27-02-2017 Heard learned counsel for the appellants as well as
learned Special Public Prosecutor.

Gone through the order impugned.

From perusal of the order impugned, it is evident that vide order dated 25.07.2016, the prayer for anticipatory bail having made on behalf of appellants, have been rejected by the learned Sessions Judge, Aurangabad.

By way of an amendment having effective from 26.01.2016, an appeal is to be maintainable against an order passed by the Special Court or Exclusive Special Court. The aforesaid view has also been conceived by a Division Bench vide order dated 17.02.2017 under Cr. Appeal (S.J.) No.832 of 2016, it has been held:-



“We are also of the view that if anyone has grievance against an order granting or refusing bail being recorded prior to 26.01.2016, in the cases instituted under the Act, the only available remedy before this Court is under Section 439 of the Code of Criminal Procedure, 1974 and if any order refusing bail has been passed by any other court below than the Special Court and Exclusive Special Court, establish or specified under the Act after 26.01.2016, in that case, the only legal recourse available to the accused is to move afresh, for grant of bail before the Special Court and Exclusive Special Court establish or specified under the Act.”

Because of the fact that instant order has been passed by the learned Sessions Judge, which has not been identified as Special Court or Exclusive Special Court as appears from its designation on account thereof, instant appeal is found non-maintainable and is dismissed with a liberty to the appellants to move afresh before the Special Court or Exclusive Special Court, whichever been notified and, the Court concerned will decide the issue without being prejudiced by the order impugned.

(Aditya Kumar Trivedi, J)

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