

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1148 of 2016

Arising Out of PS.Case No. -66 Year- 2016 Thana -AMBA District- AURANGABAD

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1. Manju Devi @ Manju Singh, W/o Murari Singh
 2. Anita Kuwar @ Anita Kumari, W/o Late Ramjit Singh
 3. Indu Devi @ Indu Singh, W/o Vijay Singh
 4. Abhimanyu Singh, S/o Late Ramjit Singh
 5. Munna Singh @ Muna Singh, S/o Jamuna Singh All Resident of Village-
 Dumra, P.S. Amba, District-Aurangabad

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Bhaskar Shankar-Advocate

For the Respondent/s : Mr. Binay Krishna-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 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 29.10.2016, 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 appellant 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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