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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 1825/2020**

BHIMENDRA KUMAR GOYAL

THROUGH HIS WIFE SHASHI GOYAL Petitioner

Through Mr. Vikram Chaudhri, Sr. Adv. with
Mr.Akshay Anand, Mr.Harshit Sethi,
Mr.Keshavam Chaudhri, Ms.Ria
Khanna, Advs.

versus

STATE NCT OF DELHI Respondent

Through Mr.Amit Mahajan, CGSC with
Mr.Zoheb Hussain, Ms.Mallika
Hiremath & Mr.Dhruv Pande, Advs.
for ED.
Mr.Satish Aggarwala, Sr. Standing
Counsel with Mr.Gagan Vaswani,
Adv. for R-3/DRI.
Mr.Satya Ranjan Swain, CGSC for
R-5.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **18.09.2020**

The hearing has been conducted through video conferencing.

CrL. M.A. 12849/2020 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

CrL.M.C.1825/2020 & CrL.M.A. 12848/2020

3. Vide the present petition, the petitioner prays as under:

- i. *Quash/set aside the Order dated 31.08.2020 (Annexure P-1) passed by the Learned CMM, Patiala House Courts, New Delhi in CC No.20376/16 as the same is not only without jurisdiction but is also contrary to the settled tenets of criminal jurisprudence;*
- ii. *Issue appropriate directions to the Respondents to ensure that the Petitioner Bhimendra Kumar Goyal is brought back from the Central Jail, Vishakhapatnam to Tihar Central Jail No.7, New Delhi in view of the fact that he is a detainee u/s 3(1) of COFEPOSA in an order passed by the Joint Secretary to the Government of India (COFEPOSA) which is already under challenge before this Court in W.P. (Crl.) No. 780/2020 & is listed for hearing on 29.09.2020 wherein he requires a legal interview with his counsel as also in view of the Constitution Bench judgment of the Hon'ble Supreme Court in A.K. Roy vs. Union of India (1982) 1 SCC 271, he is entitled to be kept in a prison/place near his residence apart from the fact that the writ petition of the detainee.*

4. Mr.Amit Mahajan, learned CGSC for State; Mr.Satish Aggarwal, learned senior standing counsel for respondent no.3./DRI; & Mr.Satya Ranjan Swain, CGSC for respondent no.5 have jointly informed this Court that petitioner is accused in CR No.181/2017 and ECIR/03/VKSZO/2017. Moreover, he is in judicial custody of the court in Vishakhapatnam, therefore, the Jail Superintendent concerned may be directed to produce the petitioner before the said court in the aforesaid cases as and when required.

5. Accordingly, I hereby direct the Jail Superintendent, Central Jail,

Vishakhapatnam that petitioner shall be sent back to Tihar Jail, Delhi in view of the detention order passed against him under COFEPOSA.

6. I further direct Jail Superintendent, Tihar Jail, Delhi to produce the Petitioner in the aforesaid cases before the Courts concerned at Vishakhapatnam as and when required.

7. The Jail Superintendent, Vishakhapatnam shall comply with the order within two weeks from the receipt of this order.

8. In view of above, the petition is disposed of.

9. Copy of this order be transmitted to the Jail Superintendent, Vishakhapatnam and Jail Superintendent, Central Jail Tihar, Delhi for information and necessary compliance.

10. The order be uploaded on the website forthwith.

SURESH KUMAR KAIT, J

SEPTEMBER 18, 2020/