

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59535 of 2018

In
CRIMINAL MISCELLANEOUS No.27430 of 2009

Arising Out of PS. Case No.- Year-1111 Thana- District-

=====

Dr. Anand Kishore @ Annu Ji Son of Shri Anshudhar Prasad Sinha R/o
Village P.O. Akbarpur, P.s. Kahalgaon, District - Bhagalpur.

... .. Petitioner/s

Versus

The Union Of India Through C. B. I.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Bipin Kumar Sinha Sc, Cbi

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 26-10-2021 Heard Mr. Sanjay Kumar, learned Advocate for

the petitioner and Mr. Bipin Kumar Sinha, learned

Advocate for the CBI.

This application has been filed for modification

of the order dated 07.09.2009 passed in batch of cases,

the lead case being Cr. Misc. No. 26647 of 2009

whereby the petitioner was granted bail but with the

caveat that he shall appear and participate regularly

during the trial on each and every day. It was observed

in the order that in case of the absence of the petitioner

or the other accused persons who have been granted bail



during the trial, without seeking any permission from the court or without showing sufficient reasons for their absence for a single day, their bail bonds would be liable to be cancelled.

Mr. Sanjay Kumar, learned counsel for the petitioner had submitted on the last occasion that ever since the aforementioned order was passed, the petitioner has been diligently appearing and participating in the trial before the court below. However, according to his instructions, even the charges in this case was not framed till that date.

Under such circumstances, the present application has been filed for modifying the order referred to above to the extent that the petitioner be allowed to represented through a counsel during the trial, especially before charges are framed and actual trial proceeding begins and that at any time when his presence would be required by the court, he be permitted to present himself on the next date fixed.



The aforesaid prayer was opposed in the first instance by Mr. Bipin Kumar Sinha, learned counsel for the CBI on the ground that only few of the witnesses are left to be examined and therefore an order passed in the year 2009 ought not to be modified to any extent whatsoever.

Learned counsel for the petitioner questioned the correctness of the aforesaid submission and submitted that Mr. Sinha, learned CBI counsel may perhaps be referring to another case and not the case in which the petitioner seeks modification of the order.

Faced with this situation, this Court called for a report about the status of the case from the court below. The report has since been received and has been kept at Flag 'X'.

The report indicates that the petitioner is an accused in Special Case No. 13(A) of 2003 which also arises out of R.C. Case No. 24(A)/2003. The supplementary case record of Special Case No. 13(A) of



2003 was opened in the year 2009 when supplementary charge sheet was filed by the CBI vide Charge-sheet No. 9/2009. In the aforesaid supplementary case, though the appearance of all the accused persons was completed on 23.07.2013 and the case was fixed for supply of police paper on 17.08.2013 but all the accused persons have yet not been served with the police papers. Some of the accused persons have filed applications for inspection of documents and have also raised objection that only partial police papers have been supplied to them.

Thus the statement made by the learned counsel for the petitioner is correct that the trial of this case is yet to begin.

Under such circumstances, this Court sees no reason not to modify the order dated 07.09.2009 passed in Cr. Misc. No. 26647 of 2009 to the extent that till the time effective trial begins and thereafter, the petitioner be permitted to be represented through his counsel.



The prayer made on behalf of the petitioner is allowed.

The order dated 07.09.2009 is modified to the extent that if an application is filed before the trial court on behalf of the petitioner for his exemption and appearance through legal representative/counsel, the same shall be allowed unless the court, for reasons to be recorded, does not consider it to be expedient to do so. The court below shall also ensure that whenever the presence of the petitioner would be required, he shall ensure his presence, failing which the privilege of bail granted to him shall be cancelled.

(Ashutosh Kumar, J)

krishna/-

U		T	
---	--	---	--

