

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1 of 2016**

1. Rahul Gupta S/o Shri Rakesh Gupta Aged About 27 Years R/o Umamili Of Talaila, Police Station Kotwali, District Damoh, Madhya Pradesh.

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station Sirgitti, District Bilaspur, Chhattisgarh.

---- **Respondent**

For Petitioner	:	Shri Vimlesh Bajpai, Advocate
For Respondent/State	:	Smt. M. Asha, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

11/04/2016

1. With the consent of the parties, heard the matter finally at the motion stage itself.
2. Brief facts required for disposal of the instant Cr.M.P. are that Cr. Case No. 5387/2015 (State of Chhattisgarh Vs. Rahul Gupta & Anr.) under Sections 380, 109, 114, 384 IPC is pending before the Judicial Magistrate First Class, Bilaspur (CG). Vide order dated 31.8.2015, the present petitioner has been charged for the offence under Sections 384, 380/109 IPC while the other co-accused has been charged for the offence under Section 380 IPC. The matter was fixed for evidence of prosecution witnesses on 14.9.2015, but within 60 days, the trial Court could not conclude the trial. On 18.11.2015, an application was filed under Section 437 (6) Cr.P.C. for grant of bail. The trial Court recorded reasons in writing and dismissed the said application. The petitioner filed Cr. Revision No. 224 of 2015 before the 4th Additional Sessions Judge, Bilaspur. The revisional Court vide order dated

26.12.2015 dismissed the Cr. Revision and affirmed the order passed by the trial Court. Against the said order the petitioner had preferred the instant Cr. Revision and had taken grounds that the trial has not been concluded within 62 days for no fault of the present petitioner and there was delay in trial with no fault of the petitioner, therefore, he be granted benefit under Section 437 (6) Cr. P.C.

3. Learned counsel for the State had filed written response/objection in the matter in which the grounds are taken that as the order passed by the trial Court is reasoned and the provisions are merely directory, the trial Court has attempted to conclude the trial within the specified period and looking to the grounds mentioned in the reply filed on behalf the respondent, the present petition may be dismissed as not maintainable.

4. Heard learned counsel for the parties and perused the material and the documents annexed.

5. Learned counsel for the petitioner submits that on the basis of the grounds taken in the instant Cr.M.P., the relief sought may be granted and the petitioner may be released on bail.

6. On behalf of the respondent/ State it is submitted that as the order passed by the trial Court is reasoned, the petition has no substance, hence, the same may be dismissed.

7. On perusal of the impugned order dated 18.11.2015, it goes to show that the trial Court has specifically mentioned that looking to the possibility of absconding, the trial court deemed it not fit to release the petitioner on bail. Also appreciated that the charges framed are of heinous nature and summons are being regularly issued and the trial is still continued.

8. As a settled law, provisions of Section 437 (6) Cr.P.C. are not mandatory

but are directory for the reasons recorded in writing the Magistrate rejects the prayer for release of the applicant under Section 437 (6) Cr. P.C..

9. On perusal of the entire facts and circumstances of the case it is clear that the theft was made for Rs.2,37,700/- in cash and the ornaments worth Rs.6 lacs. The trial Court recorded reasons for rejection of the said prayer and also perused the nature of offence and other facts regarding attempt for recording of the statement of the witnesses.

10. On due perusal, it cannot be said that the trial Court had committed any illegality or impropriety in rejecting the prayer of the petitioner under Section 437 (6) Cr.P.C. and also I do not find any illegality or infirmity committed by the revisional Court while affirming the order passed by the trial Court. I am not inclined to invoke the jurisdiction under Section 482 Cr.P.C. to release the petitioner on bail under the provisions of Section 437 (6) Cr.P.C.

11. On due consideration, the petition has no substance and the same is liable to be and is hereby dismissed at the motion stage itself. However, the trial Court is directed to expedite the trial and dispose of the matter as expeditiously as possible. Parties are directed to cooperate with the trial.

12. The petitioner may file a copy of this order before the trial Court for speedy trial.

13. Copy of this order be sent to the trial Court for compliance.

Sd/

(Chandra Bhushan Bajpai)

Judge