

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 312 OF 2016

Surendra Manikpuri, S/o Late Mahettar Manikpuri, aged about 24 years,
R/o Ravanbhata, Daga House, Bhavesh Kirana Store Street, Tikrapara,
Raipur (C.G.)

... Applicant

Versus

State of Chhattisgarh, through District Magistrate, Raipur, District Raipur
(C.G.)

... Non-applicant

For Applicant	:	Ms. K. Tripti Rao, Advocate.
For Non-applicant/State	:	Ms. Madhunisha Singh, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/05/2016

1. The present application under Section 482 of CrPC has been filed aggrieved by the order dated 20.10.2015 whereby the Special/Additional Sessions Judge, Raipur in Criminal Revision No. 389 of 2015 has rejected the revision petition preferred by the Applicant against the order of the Judicial Magistrate First Class, Raipur dated 9.9.2015 in Criminal Case No. 19056 of 2014 wherein the Trial Court had rejected the application under Section 437(6) of CrPC.

2. Counsel for the Applicant submits that the Applicant has been charged for the offence under Sections 457, 380, 34 of IPC and he is languishing in jail since 7.9.2014 but the proceeding before the Court below is not proceeding at a fast pace. Till now only five out of ten witnesses have been examined and there is no likelihood of an early disposal of the case and therefore the Applicant may be granted the advantage of Section 437(6) of CrPC and he may be released on bail.

3. Counsel for the State however opposes the application and submits that in the instant case the last witness was examined on 7.9.2015 and it is not a case where the progress is at slow pace, whereas all efforts are being made that the trial is concluded at the earliest which stands established from the fact that from the ten witnesses cited by the prosecution the last witness has been examined on 7.9.2015. He further submits that for the presence of the remaining witnesses the Court below has already issued bailable warrants and there is all likelihood that the matter can be disposed of at the earliest.

4. Considering the total facts and circumstances of the case particularly taking into account the nature of allegation and magnitude of the offence committed by the Applicant of misappropriation of funds from the ATP machine, in the opinion of this Court it is not a fit case where the advantage of Section 437(6) of CrPC can be granted to the Applicant particularly when the matter is in the midst of recording of the prosecution evidence and five out of ten witnesses have already been examined.

5. The present application under Section 482 of CrPC being devoid of merit is dismissed. However, the Court below is directed to ensure the presence of the remaining witnesses at the earliest and to decide the matter as expeditiously as possible.

Sd/-
(P. Sam Koshy)
Judge