

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 550 of 2016**

Rajan @ Raju @ Rajendra S/o Sukhchain Aged About 35 Years R/o Kapur
Singh Dafai, Chota Bazar, Thana Chirmiri, Thasil Khadgawa, Distt.
Koriya Chhattisgarh

---- Petitioner**Versus**

The State Of Chhattisgarh Through, District Magistrate Distt. Koriya
Baikunthpur Chhattisgarh

-----Respondent

For Petitioner:	Shri Parag Kotecha, Advocate.
For Respondent/State:	Shri Anupam Dubey, Dy. Govt. Advocate.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

08.7.2016

1. Vide the present Petition under Section 482 Cr.P.C, the present Petitioner claims for a benefit to be granted to him under the provisions of Section 437(6) Cr.P.C.

2. According to Learned Counsel for the Petitioner, the present Petitioner is an accused under Sections 420, 467, 468 and 471 IPC in Crime No.140/2015. After investigation, the police has filed charge sheet on 7.11.2015. Prior to that, the Petitioner was arrested on 10.9.2015. He submits that it is by now almost 10 months' time that the Petitioner is languishing in jail and that the trial is pending before the Court below i.e. the Court of JMFC, Chirmiri, District Koriya in Criminal Case No.34/16. He further submits that the prosecution has cited about 24 witnesses and out of them, till now only 6 have been examined and the Petitioner is in jail for no fault of his. He further submits that in the instant case, the Complainant has not supported the case

of the prosecution and the possibility of him being convicted in the said offence also seems to be remote. Moreover, the evidence in the present case has started on 9.12.2015 and though almost over 7 months have passed from the date when the witness was for the first time ordered to be examined i.e. 9.12.2015, the prosecution has till now examined only 6 witnesses and that in the present pace at which the trial is being conducted, there is no possibility of an early conclusion of the trial and therefore, the Petitioner is entitled for the advantage of the provisions under Section 437(6) Cr.P.C.

3. Learned State Counsel however opposing the Petition submits that it is not a case where there is an inordinate delay in the conclusion of the trial nor is it a case where the matter is pending since long before the Trial Court. According to him, the evidence has started on 9.12.2015 and it is now about 7 months' time that has elapsed and in this process, about 6 witnesses have already been examined and the remaining witnesses shall also be examined at the earliest. Moreover, he submits that the nature of the offence leveled against the Petitioner is also the one under Sections 420, 467, 468 & 471 IPC which are of serious in nature and therefore, releasing the Petitioner on bail under Section 437(6) Cr.P.C at this juncture may not be advisable and there is all likelihood that he may influence the remaining witnesses.

4. Having considered the rival contentions put forth by either sides and on perusal of the records, what is admitted is the fact that there is no inordinate delay on the part of the Trial Court in conducting the trial and it is only 7 months' time that the evidence was for the first time i.e. on 9.12.2015 had started and the last witness was examined on 24.2.2016 and the order sheets attached to the Petition reflect that subsequently, on more than a couple of occasions, the Court was not functional on account of the Presiding Officer not

being available and as such it cannot be said that there is inordinate delay in the conclusion of the trial.

5. Taking into consideration the nature of allegations levelled against the present Petitioner, this Court is of the opinion that it is not a case for grant of benefit under Section 437(6) Cr.P.C to the Petitioner, at this juncture.

6. However, it is directed that the Court below shall ensure the presence of the remaining witnesses by enforcing provisions of law under its powers and jurisdiction and try to conclude the trial as expeditiously as possible.

7. With the aforesaid observations, the instant Cr.M.P stands disposed of.

Sd/-
(P. Sam Koshy)

JUDGE