

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P. No. 856 of 2016**

Haribhajan Das Mahant S/o Late Sukhram Das Mahant, aged about 62 years, Occupation Govt. Servant, R/o Poksari, P.S. and Tahsil - Batauli, District Surajpur, Chhattisgarh, present address Society Manager, Adim Jati Sahkari Seva Samiti, Dhandhapur, P.S. Raipur, District Balrampur Ramanujganj, Chhattisgarh.

---- Petitioner**Versus**

State of Chhattisgarh through S.H.O. District Magistrate, Balrampur, District Balrampur, Ramanujganj Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Hemant Gupta, Advocate.
For Respondent	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice P.Sam Koshy**Order On Board****02/11/2016**

By way of the present petition under Section 482 Cr.P.C. the petitioner seeks for grant of bail providing him the benefit under Section 437 (6) of Cr.P.C.

2. Counsel for the petitioner submits that the present petitioner has been implicated in Crime No.141/14 before Police Station Rajpur, District Balrampur wherein the FIR has been registered against the petitioner for the offence under Sections 409, 420, 467, 468, 471, 34 of IPC. Subsequently, on 22.09.2015 charges were framed against the petitioner under the said sections except Section 471 of IPC and since then the matter has been fixed for evidence of the prosecution witnesses for which the first date was given on 06.10.2015. He submits that under the normal

circumstances, the trial should have been completed within 60 days i.e. till 06.12.2015. However, though more than one year has passed, the prosecution has examined only three witnesses out of the total cited 24 witnesses. He further submits that a perusal of the order sheet of the trial Court would clearly reflect that the proceeding before the Court below all along has been adjourned except for one date of hearing i.e. on 03.11.2015 at the behest of the prosecution either on the ground of non production of the witness or the witnesses coming without original record. He further submits that since the trial is being conducted by the JMFC, the maximum sentence which may be imposed upon the petitioner is of 3 years of which he has already undergone about 2 years and 7 months and therefore the petitioner may be released on bail.

3. State counsel opposing the petition submits that taking into consideration the gravity of the offence it is not a case where the petitioner should be enlarged on bail granting the benefit of Section 437 (6) of Cr.P.C.

4. True it is, the gravity of the offence in the instant case appears to be serious in nature, that too of monetary embezzlement of the Society. However, the fact which still remains is that the trial is going on before the JMFC and the petitioner has already remained in custody for 2 years 7 months. In addition, 12 months have been passed for the evidence of the prosecution witnesses but till now only three witnesses have been examined out of the total 24 witnesses. Therefore, it appears that there is a slow progress with the trial and it is only the prosecution who has to be blamed for the same.

5. Thus, taking into consideration the provisions under Section 437 (6) CrPC this Court is of the opinion that a strong case is made out for releasing the petitioner on bail.

6. Accordingly, the present Cr.M.P. is allowed. It is directed that petitioner Haribhajan Das Mahant shall be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- with one surety each in like sum to the satisfaction of the concerned trial Court. The petitioner is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the Criminal Case pending before the trial Court.

Sd/-
(P.Sam Koshy)
JUDGE