

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 574 of 2016**

Bhamendra Kumar Sahu S/o Bedram Sahu, aged about 24 years,
R/o village Kurud, Police Station Panduka, District Gariyabandh, CG

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

State of Chhattisgarh through the Officer-in-Charge, Police Station
Gariyaband, District Gariyaband, Chhattisgarh

---- **Respondent**

For Petitioner	:	Shri Sanjeev Sahu, Advocate
For Respondent/State	:	Shri Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****11/07/2016**

The present petition under Section 482 of CrPC has been filed by the petitioner seeking for relief under the provisions of Section 437 (6) of CrPC.

2. Counsel for the petitioner submits that the petitioner was charged for the offence under Sections 420, 467, 468 and 471 of IPC in Criminal Case No. 763/15 as early as on 07.12.2015. He submits that though after framing of charges against the petitioner, the prosecution witnesses were ordered for evidence on 21.12.2015 but there was an inordinate unexplained delay on the part of the prosecution witnesses to appear before the Court below on account of which the petitioner is languishing in jail for no fault on his part and is suffering immensely. He submits that there are in all 36 prosecution witnesses cited by the prosecution out of which the first witness could be examined only on 25.02.2016. He further submits that with the said pace at which the evidence is going on, there is

no likelihood of early conclusion of the trial and therefore the petitioner could have been granted benefit of the provisions under Section 437 (6) of CrPC.

3. State counsel, however, opposes the petition and submits that considering the seriousness of allegation and charges levelled against the petitioner, he is not entitle to release on bail. He submits that for the first time the matter was fixed for evidence of the prosecution witnesses in December, 2015 and it was commenced since 25.02.2016 when the evidence of the first witness was recorded and therefore it cannot be said that there is an inordinate delay in trial. Rather the Court below has been making every endeavour to keep the prosecution witnesses present during the course of trial and therefore the petitioner does not deserve to be released on bail.

4. Considering the total facts and circumstances of the case more particularly the fact that the evidence has commenced since 25.02.2016 and it is progressing, this Court is of the opinion that at this juncture releasing the petitioner on bail invoking the provisions under Section 437 (6) CrPC would not be proper.

5. However, it is expected that the Court below shall make all endeavour for calling the prosecution witnesses and record their evidences at the earliest so that the trial itself is concluded expeditiously.

6. With the aforesaid observation, the instant Cr.M.P. stands rejected.

Sd/-
(P. Sam Koshy)
JUDGE