

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 1324 of 2016**

- Baby Khan @ Firoj Khan S/o Rafeek Khan Aged About 35 Years R/o Karbala Chowk, Juna Bilaspur, Police Station City Kotwali Bilaspur, Tahsil & District Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh.

**---- Petitioner**

**Versus**

- State Of Chhattisgarh Through District Magistrate, District Mungeli, Chhattisgarh.

**---- Respondent**

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For Petitioner  
For Respondent /State

Mr. Dheerendra Pandey, Advocate  
Mr. Ramakant Mishra, Dy. AG

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**Hon'ble Shri Justice Prashant Kumar Mishra**

**Order On Board**

**23/12/2016**

1. Heard.
2. The petitioner along with Durgesh Yadav, Sushil Agrwal , Yugal Kishore Sen have been arrested on the allegation that the petitioner made a phone call to Deputy Commissioner, Excise Department Mr. Vijay Sen Sharma, demanding Rs.28,000/-.
3. Admittedly, the SIM number through which the phone call was made belonged to co-accused Yugal Kishore Sen. The petitioner's earlier bail application filed under Section 439 of Cr.P.C., was dismissed by this Court vide order dated 11.02.2016 passed in M.Cr.C. No.576 of 2016. However, by the same order,

co-accused Durgesh Yadav was granted bail further mentioning therein that Sushil Agrawal and Yugal Kishore Sen have also been released on bail vide order dated 29.01.2016 and 03.02.2016 passed in M.Cr.C. Nos.317 of 2016 and 422 of 2016 respectively.

4. Although it is not a case where the petitioner has preferred second bail application under Section 439 of Cr.P.C., but in fact, the petitioner has moved before the trial Magistrate under Section 437(6) of Cr.P.C. for the reason that after fixing of the date of the evidence, the trial was not completed within 60 days and the said application having been rejected, the petitioner's revision application was also dismissed by the Sessions Court, this Court is convinced that in view of the length of the pre-trial detention of the petitioner as he is in jail since 03.1.2015 i.e. more than a year and the prosecution has not been able to conclude the trial within 60 days from the first date, on which, it was fixed for recording of evidence, the applicant is entitled to be released on bail.
5. Similarly, it is also not a case where the petitioner is accused of committing any heinous crime or sexual offence or he has committed any such offence involving huge sum or is a habitual offender. Had it been so, the exercise of discretion in favour of the petitioner would have been difficult. Since the above is not the case here, this Court is of the considered view that the application filed under Section 437(6) of Cr.P.C. should be allowed.
6. Accordingly, the impugned order passed by the Sessions Court in

Criminal Revision No.H-32/2016 is set-aside. Consequently, the petitioner's application under Section 437(6) of Cr.P.C. stands allowed and he is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court/remand Court. He is directed to appear before the said Court on each and every date given by the said Court.

7. The Cr.M.P. stands accordingly allowed.

Sd/-

Judge

**(Prashant Kumar Mishra)**

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