

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1010 of 2017

1. Pavitra Singh @ Pavitra Singh Rathiya S/o Shri Gendlal Rathiya, Aged About 35 Years R/o Cheetapali, Police Station Chhal, District Raigarh Chhattisgarh.
2. Lalit Rathiya, S/o Shri Gendlal Rathiya, Aged About 30 Years R/o Cheetapali, Police Station- Chhal, District Raigarh Chhattisgarh.

---- Petitioners

Versus

- State Of Chhattisgarh Through The District Magistrate Raigarh District Raigarh Chhattisgarh.

---- Respondent

For Petitioners	:	Shri A.N. Bhakta, Advocate.
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For Respondent/State		Shri Neeraj Sharma, Govt. Advocate.
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Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

14/09/2017

Heard.

1. This petition under Section 482 of Cr.P.C. has been brought with a prayer to quash the impugned order passed by the Court of 5th Additional Sessions Judge, Raigarh on 20.12.2016 and for granting relief of bail to the petitioners under Section 437(6) of Cr.P.C.
2. Petitioners are facing trial in Criminal Case No.241 of 2015 before the Court of JMFC, Dharamjaigarh for offence under Sections 420, 467 and 471/34 of Indian Penal Code (for short 'IPC'). The charges were framed on 8.9.2016 and the first date of hearing was fixed on 22.9.2016. From the date of first hearing, the evidence of prosecution could not be

completed within 60 days, thereafter, petitioners moved an application under Section 437(6) before the trial Court on 22.11.2016, which was rejected by the trial Court on the basis of gravity of the offence committed. This order was challenged in Revision Petition No.163 of 2016 before the Court of 5th Additional Sessions Judge, Raigarh, the revision petition has been dismissed vide the impugned order. Hence, this petition.

3. It is submitted by learned counsel for the petitioner that petitioners have become entitled for bail under the provisions of Section 437(6) of Cr.P.C. due to default of prosecution but the Courts below have denied the prayer made by the petitioners arbitrarily and mechanically, hence, prayed that petitioners be granted the relief.
4. Learned State counsel has opposed the submissions made and submits that petitioners are charged with offence of cheating the complainant and thereby obtaining wrongful gain of more than Rs. 60 lakhs, hence, the offence is grievous in nature because of which they could not be enlarged on bail.
5. Learned counsel for the petitioners placed reliance on the judgment of this Court passed in CRMP No.800 of 2017 on 30.08.2017.
6. Heard both the parties and perused the documents on record.
7. As the case is this that the petitioners/ accused persons and one Gajeram Rathia were awarded compensation through cheque. Petitioners and one impersonator Gajeram Rathia opened a bank account in which the said cheque was deposited and the amount was withdrawn by the petitioners. The dispute is between the members of the

same family. Apart from that Section 437(6) of Cr.P.C. gave entitlement for bail on the ground of default committed by the prosecution, failing to complete the evidence of prosecution within 60 days from the first date of hearing, in such a case the gravity of offence is not to be taken into consideration unless and until the offence committed is of such nature, which affects the society at large or that the offence is of huge magnitude. This not being the case of such nature the application of the petitioners deserves to be allowed.

8. Accordingly, the petition is allowed and consequent thereto the application filed by the petitioners under Section 437(6) of Cr.P.C. is allowed and the order passed by the trial Court and by the revisional Court are hereby set aside. It is directed that the petitioners shall be released on bail on their furnishing a personal bond for a sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed. In case any default is committed by the petitioners in appearing before the Court this order granting bail shall stand cancelled automatically.

9. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE