

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 92 of 2017

Arun Kumar Mishra, S/o. Shri Rakesh Mishra, Aged About 29 Years,
Occupation Service, R/o. Siddhi Vinayak Colony, Raigarh, Tahsil & District
Raigarh (Chhattisgarh) Civil & Revenue District Raigarh (Chhattisgarh)

---- Petitioner

Versus

State Of Chhattisgarh, Through the Police Station City Kotwali, Raigarh
(Chhattisgarh)

---- Respondents

For Petitioner : Mr. B.P. Sharma & Mr. Hari Agrawal, Advocates

For Respondents : Mr. Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26.10.2017

Heard

1. The present petition is against the rejection of bail under Section 437(6) of Cr.P.C.
2. The facts of this case are that a report was made by one Rajesh Yadu, Branch Manger of ING Vyasa Bank Raigarh that the present petitioner who was working in the Bank collected different amounts on the basis of ATM from the customers and withdrew the same, however, the same was not handed over to them and thereafter complaint was made and it revealed that total Rs.34,03,400/- was withdrawn from the account of 60 customers for which after investigation the charge sheet was filed.
3. Learned counsel for the petitioner would submit that the petitioner was arrested on 04.03.2015, thereafter, the charge sheet was filed and charges were framed in the month of November, 2015 and thereafter it was fixed for evidence on 01.12.2015. Thereafter,

despite passing of 60 days, which expired on 18.04.2016 still the case is going on. It is further submitted that thereafter an application was moved to file additional charge sheet, which was allowed under Section 173(8) of Cr.P.C. and in the meanwhile 10 witnesses were already examined. However, again with the additional charge sheet, further few witnesses were enlisted, which will take enormous time and the delay has not been attributed to the petitioner. Consequently, considering the period of detention, the petitioner may be enlarged on bail in exercise of power under Section 437(6) of Cr.P.C.

4. Learned State counsel opposes the prayer for grant of bail.
5. The reply of the State would reveal that on 07.03.2017 another application has been filed under Section 311 of Cr.P.C. for taking evidence of the witness namely Station House Officer, City Kotwali and other six witnesses, thereby, number of witnesses have been now enlisted as 21 and out of which 10 witnesses have already been examined and 11 remained to be examined.
6. Perusal of the order sheet would *prima facie* show that as and when the witnesses appeared, they were examined and delay do not appears to have been attributed to the petitioner. The circumstances would show that presently out of 21 witnesses, 10 witnesses have already been examined, therefore, the question of tempering of evidence by the accused cannot be assumed at this stage. Taking into total impact of the offence and nature of allegation as mainly private individuals are involved which *per se* do not involve any offence against society, considering it with the fact that the fresh application has been filed under Section 311 of Cr.P.C. by prosecution as also the additional charge sheet is filed

and the appellant is in jail since 02.11.2015, admittedly after the first date of evidence i.e. 01.12.2015 the trial is not concluded and it may take further time as additional evidence which was prayed by the State has been allowed, I am inclined to allow this writ petition.

7. Consequently, It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge