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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CR.M.P. No. 442 of 2017**

Sharad Bhriegu, S/o. Late Shivkumar Bhriegu, aged about 48 years, R/o. Gandhi Mandir Ward, Bhatapara, Tehsil – Bhatapara, Police Station – Bhatapara (City), District – Balodabazar – Bhatapara (C.G.)

**---- Petitioner**

**Versus**

State Of Chhattisgarh, Through : District Magistrate, Baloda Bazar, District – Baloda Bazar – Bhatapara (C.G.)

**-----Respondent**

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| For Petitioner       | : Mr. Vaibhav A. Goverdhan, Advocate |
| For Respondent/State | : Mr. Ashish Shukla, Govt. Advocate  |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**03/08/2017**

Heard.

1. This petition has been brought with prayer to exercise inherent jurisdiction under Section 482 of Cr.P.C.
2. It is submitted by the counsel for the petitioner that petitioner is facing prosecution for offence U/s. 420, 406, 409 of Indian Penal Code for alleged cheating, defalcation and embezzlement of Rs.1,13,59,695/-. Petitioner is continuously in jail since the date of his arrest. After framing of charge, the case was fixed for evidence for the first time on 16.05.2016. The evidence of prosecution could not be completed within 60 days, hence claiming entitlement to be

released on bail under Section 437 (6) of Cr.P.C., petitioner filed an application before the trial Court, which was rejected on 21.07.2016. The case remained pending and the evidence of the prosecution could not be completed on further dates, hence a repeat application was presented before the trial Court on 09.12.2016, which has been decided and rejected vide order dated 22.12.2016 (Annexure P/2). It was mentioned in the order sheet that aggrieved with the previous order dated 21.07.2016, petitioner had moved a Cr.M.P. No.945/2016, before this Court, which has been decided by the order dated 02.09.2016 by rejecting the petition.

3. Petitioner preferred a revision No.H-03/2017 before the Sessions Judge, Bhatapara, which has been decided by the Additional Sessions Judge, Bhatapara, District – Balodabazar by order dated 22.02.2017 by dismissing the revision petition. Hence this petition has been brought with prayer for interference by exercising inherent powers of this Court.
4. Learned counsel for the State opposes the petition and the arguments submitted on behalf of the petitioner.
5. I have heard the learned counsel for the parties and perused the documents on record.
6. Petitioner has placed reliance on the order passed by this Court in Cr.M.P. No.1447/2016, dated 10.03.2017, in which it was held that amount of defalcation need not be taken into consideration while considering grant of bail under Section 437 (6) of Cr.P.C. This matter is differently placed. First application of the petitioner was rejected by the trial Court and that order was affirmed by the

revisional Court. The petitioner filed a petition under Section 482 of Cr.P.C. before this Court bearing Cr.M.P. No.945/2016, which was disposed off on merits. There being an order of the Coordinate Bench of this Court, deciding the prayer of the petitioner under Section 482 of Cr.P.C. on merits, which can not be recalled by this Court in this petition.

7. Hence for these reasons, this petition is without any substance and it is dismissed accordingly at motion stage itself.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge

Balram