

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 166 of 2017

Dukhram, S/o. Shri Allaram Yadav, Aged About 39 Years, R/o. Village Kurdi,
Police Station -Arjunda, District- Balod, Chhattisgarh.

---- Petitioner

Versus

State of Chhattisgarh, Through : Police Station, Rajhara, District- Balod,
Chhattisgarh.

-----Respondents

For Petitioner	: Mr. B.P. Singh, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

03/08/2017

Heard.

1. This petition has been filed with prayer to exercise inherent jurisdiction for setting aside the order of Sessions Judge, Balod, passed in Criminal Revision No.42/2016, dated 05.12.2016 whereby the order passed by the trial Court dated 04.11.2016 rejecting the application of the petitioner under Section 437 (6) has been affirmed.
2. Counsel for the petitioner submits that petitioner is in jail since 15.09.2015. The charge was framed against the petitioner on 15.12.2015 and the first date of recording of evidence was fixed on 26.12.2015, thereafter, the evidence of prosecution could not be

completed within a period of 60 days. Hence becoming entitled for bail under Section 437 (6) of Cr.P.C., the petitioner moved an application before the trial Court, which was rejected by order dated 04.11.2016. Against the order of rejection of application under Section 437(6) of Cr.P.C., a revision was preferred bearing Criminal Revision No.42/2016, which was decided on 05.12.2016 and has been dismissed on the ground that in this matter, the principle laid down by this Court in case of *Atul Bagga Vs. State of C.G.*, reported in 2009 (3) C.G.L.J. is applicable, as the magnitude of offence in this case is wide and it affects the society at large, for these reason the revision petition was dismissed. Hence this petition.

3. It is submitted by the counsel for the petitioner that trial is under way in which, out of 16 witnesses, 7 witnesses have been examined by the Court and no statement has been given by the witnesses against the present petitioner, which is also a reason that petitioner should be benefited with grant of bail. Further it is also submitted that the impugned order is bad in law. This case is not governed by the principle laid down in case of *Atul Bagga*. Reliance has been placed in the order passed on dated 10.03.2017 in Cr.M.P. No.1447/2016 in case of *Suneshwar Singh Thakur Vs. State of C.G.*, order dated 23.12.2016 passed in Cr.M.P. No.1324/2016 in case of *Baby Khan @ Firoj Khan Vs. State of C.G.* of this Court and on the judgment of Supreme Court in case of *Chandraswami Vs. Central Bureau of Investigation*, reported in (1996) 6 SCC 751.
4. The decision relied upon by the petitioner have been passed on the basis of different set of facts, which shall not be applicable in this

case. It has been clearly held in case of Atul Bagga (supra) by this Court, where the offence lodged is of such nature, having magnitude and affecting the society at large in that case the reason for dismissing application under Section 437 (6) shall be regarded as sufficient. It is a case in which the petitioner is charged with offences under Section 420/34 and Section 3, 4 & 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1979 along with Section 58 (B) of R.B.I. Act. According to contents of the charge-sheet, a number of investors have been cheated by the fictitious finance company, of which the petitioner posed to be a additional director.

5. Considering all these facts, this petition does not deserve to be admitted for hearing and the petition is dismissed at motion stage. However, the trial Court is directed to conclude the trial expeditiously.

Sd/-
(Rajendra Chandra Singh Samant)
Judge