

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Judgment reserved on 02-03-2017**

**Judgment delivered on 19-06-2017**

**CR.M.P. No. 276 of 2017**

- B.B. Verma, S/o Maniram Verma, aged about 59 years, Agriculture Extension Officer, Takhatpur, Mungeli, Present Address Shubham Vihar, District Bilaspur (CG)

**---- Petitioner**

**Versus**

- State Of Chhattisgarh Through Superintendent of Police, Anti Corruption Bureau, District Bilaspur (CG)

**---- Respondent**

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| For Applicant         | Mr. Praveen Das, Advocate      |
| For Respondent /State | Mr. Arvind Dubey, Panel Lawyer |

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**Hon'ble Mr. Justice Prashant Kumar Mishra**

**CAV Order**

1. Petitioner would assail the order passed by the trial Court on 21-12-2016 whereby non-bailable warrant has been issued against him as also the order dated 24-1-2017 by which the application under Section 70 (2) of the Code of Criminal Procedure, 1973 (in short 'the Cr.P.C.') for cancellation of non-bailable warrant has been rejected.
2. The petitioner was caught red-handed while accepting illegal gratification of Rs.2000/- from one Basant Sahu on 27-2-2002 and pursuant to which offence under Sections 7, 13 (1) (d) and 13 (2) of the Prevention of Corruption

Act, 1988 has been registered. The sanction for prosecution was granted by the competent authority against the petitioner on 8-2-2006. The said grant of sanction is under challenge before this Court in WP No.2257 of 2006 wherein an interim order has been passed in petitioner's favour.

3. On petitioner's failure to appear before the trial Court at the time of filing of charge sheet on 8-12-2006 the Special Judge (Prevention of Corruption Act) issued bailable warrant against the petitioner and thereafter, when the bailable warrant could not be served non-bailable warrant has been issued on 21-12-2016 and prayer to recall the said order has been rejected on 24-1-2017.
4. It is argued that the writ petition preferred by the petitioner was dismissed for want of prosecution which has now been restored and since the petitioner was not aware about such dismissal he could not appear before the trial Court. It is also argued that the writ petition having been restored, if the petitioner is arrested the interim order passed in petitioner's favour shall be ineffective.
5. On perusal of the papers available in the record, it would appear that initially the trial Court issued bailable warrant and thereafter, the warrant of arrest has been issued, therefore, it cannot be said that the trial Court has proceeded against the petitioner contrary to the legal provisions. Once the Investigating Officer released the

petitioner on bail at the time when the trap was laid against the petitioner, it was the petitioner's duty to present himself before the trial Court as and when the charge sheet is filed. Non appearance on such date amounts to violation of the terms of bail, therefore, the trial Court has not committed any illegality in issuing non-bailable warrant against the petitioner. Merely because the writ petition was pending, it does not absolve the petitioner of his duty to appear before the trial Court at the time of filing of charge sheet. Mere fact that the charge sheet was filed on 8-12-2016 would demonstrate that as on 3-5-2006 when the writ petition was entertained no trial was pending against the petitioner, therefore, there was no occasion before the writ Court to stay the further proceedings of the trial Court.

6. In view of the aforesaid facts and circumstances of the case, it is manifest that the petitioner is trying to derive undue benefit of pendency of writ petition to cover up his failure to appear before the trial Court when the charge sheet was filed.
7. As an upshot, the present petition, being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

Judge  
**(Prashant Kumar Mishra)**

Gowri