

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 821 of 2017**

- Nitin Kumar Chourasiya S/o Rewti Raman Chourasiya, Aged About 40 Years
R/o L.I.C. Colony, Mowa, Post Office Raipur, Police Station Pandri (Mowa)
Raipur, Tahsil & District Raipur, Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh Through The District Magistrate, Rajnandgaon, District
Rajnandgaon, Chhattisgarh.

---- Respondent

For Petitioner : Shri Shivendu Pandya, Advocate.

For Respondent/State : Shri Neeraj Sharma, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****23/08/2017**

Heard.

1. This petition has been brought under Section 482 of Cr.P.C. challenging the order of rejection passed by trial Court as well as revisional Court below, the prayer made by the petitioner under Section 437(6) of Cr.P.C.
2. Petitioner is facing trial for offence under Sections 420, 467/34, 468, 471 of Indian Penal Code (for short 'IPC') in Criminal Case No. 3180/2016 in the Court of Judicial Magistrate First Class, Rajnandgaon. Charges were framed against the petitioner on 14.10.2016 and the date was fixed for prosecution evidence on 03.11.2016, thereafter, a number of dates were fixed for recording the evidence, even then the prosecution evidence could not be completed, hence, claiming entitlement to be released on

bail under Section 437(6) of Cr.P.C., petitioner made an application before the trial Court which was rejected by order dated 28.3.2017 **(Annexure-A2)**. The Criminal Revision No.29/2017 preferred was decided by the Additional Sessions Judge, Rajnandgaon by order dated 16.5.2017 **(Annexure-A1)** rejecting the revision petition and upholding the order of the trial Court Magistrate. Hence, this petition.

3. It is submitted by learned counsel for the petitioner that the order passed by Courts below are illegal, perverse and liable to be set aside. Entitlement of petitioner to be released on bail cannot be devied in this manner, hence, prayed that petitioner be enlarge on bail. Reliance has been placed on the judgment of Santosh Dubey Vs. State of C.G. in 2017 (2) C.G.L.J. 1.
4. Learned counsel for the State has opposed the grounds raised in the petition and the submissions made by counsel for petitioner, it is submitted that petitioner is accused for offence of cheating and forgery on grounds that he cheated the complainant and others on the pretext of providing employment to their siblings and thereby received an amount of Rs. 1 lac from the complainant and the others concerned, hence, offence is of grave nature and for this reason he should not be enlarged on bail.
5. Heard both the parties and perused the material on record.
6. Section 437 (6) of Cr.P.C. is enabling provision which entitles the accused person facing trial for grant of bail in case of default committed by the prosecution. It is submitted that petitioner is in jail since 3.7.2016 almost more than 1 year has passed since then and the evidence of prosecution is not completed even after passing of more than 60 days

from the first date of hearing i.e. 3.11.2016. No specific reason has been assigned in the order passed by the trial Court dated 28.3.2017 for rejection of bail. Similarly the revisional Court has also rejected revision petition only on the ground that the counsel for petitioner sought adjournment on the date of hearing.

7. Section 437(6) of Cr.P.C. does not make any entitlement to be released on bail absolutely, as it provides that in case there are reasons to be recorded in writing the trial Magistrate can reject the application mentioning such reasons. The detailed reasons mentioned in the orders passed by the Courts below have some relevance but that is not the complete fact scenario. The gravity of offence in such cases cannot be taken into consideration for rejection of bail, hence, for these reasons, this petition deserves to be allowed.
8. With the aforesaid observations, this petition is allowed and the order passed by the trial Court and by the revisional Court are hereby set aside. It is directed that the petitioner 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, in case any default is committed by the petitioner 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

