

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 952 of 2017**

- Rajesh Tripathi S/o Shri B.L.Tripathi, Aged About 35 Years R/o Patli Putra Colony, House No.52, Sarkanda, P.S. Sarkanda, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, Bilaspur, District Bilaspur, Chhattisgarh

---- Respondent

For Petitioners : Shri Awadh Tripathi, Advocate.

For Respondent/State : Shri Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****15/09/2017**

Heard.

1. Petition under Section 482 of Cr.P.C. has been brought with a prayer to quash the impugned order of the trial Court refusing to grant bail under Section 437(6) of Cr.P.C.
2. Petitioner has been prosecuted for offences under Sections 409, 420 and Section 120-B/34 in Criminal Case No.1338/15.
3. Charges were framed on 25.1.2016 and the first date of hearing was 6.2.2016 but the evidence of prosecution could not be completed within a further period 60 days. In the meanwhile, on the basis of compromise with complainant, an application was filed for composition of offence and the petitioner was acquitted of the charge under Section 420 read with

34 of IPC, however, the trial in connection with the offence under Section 409/34 of IPC is still pending. Petitioner is in custody since the date of his arrest i.e. before the filing of charge-sheet on 14.12.2015. Application filed by the petitioner for bail under Section 437(6) of Cr.P.C. was rejected by the trial Court on 13.7.2016 and thereafter the case was pending for recording of prosecution evidence. In the meanwhile, an application for bail under Section 437(6) of Cr.P.C. was moved, which was rejected on 16.2.2016 thereafter another application under Section 437(6) of Cr.P.C. was presented before the trial Court which was rejected on 28.4.2016 mentioning that the application under that provision filed earlier has been rejected on merits, hence, the same was also rejected. Criminal Revision No.77/2017 preferred against this order has also been rejected on 27.5.2017. Hence, this petition.

4. Learned counsel for petitioner submits that the Courts below have arbitrarily rejected the application and revision petition of the petitioner, hence, prayed for grant of bail under Section 437(6) of Cr.P.C.
5. Learned counsel for State has opposed the petition and submissions made in this respect.
6. Heard the counsel for both the parties and perused the material on record.
7. Section 437(6) of Cr.P.C. gives entitlement for bail on account of default committed by the prosecution by not completing the evidence within 60 days from the first date fixed for taking evidence in the case. On the basis of this entitlement, the petitioner has moved the first application which has been decided and rejected on 13.7.2016 and thereafter no revision was filed against that order. Application filed by the petitioner for

grant of regular bail has also been rejected by the trial Court vide order dated 08.12.2016 and after rejection of such application, the petitioner moved fresh application under Section 437(6) of Cr.P.C. which has also been rejected by the Court below, revision against this order has been dismissed vide impugned order.

8. The entitlement under Section 437(6) of Cr.P.C. arises only once and upon rejection of such application, the accused had an opportunity to assail the rejection order before the revisional Court and in case of dismissal of revision, he had option to approach this Court. However, in this case the petitioner instead of assailing the order of revisional court had chosen to file fresh application under Section 437 (6) CrPC and thereby waived the opportunity of approaching this Court challenging the order of revisional court. No repeat application can be filed by any accused under Section 437(6) of Cr.P.C, although petitioner can pray for bail under regular provisions of the Code.
9. On the basis of these observations and reasons as aforementioned, this petition is without any merit which is dismissed accordingly.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE