HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1074 of 2017

Raja Tiwari @ Rajkumar Tiwari, S/o. Late Ramayan Prasad Tiwari, Aged About 38 Years, R/o. Near Uma Dairy, Naya Talab Gudhiyari, Raipur, Police Station Gudiyari, District Raipur, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station Gudhiyari, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Atanu Ghosh, Advocate

For Respondent : Mr. Neeraj Sharma, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

14.11.2017

Heard

1. This petition is against the order dated 21.07.2017 passed by the Second Additional Sessions Judge, Raipur, whereby the revisional Court has affirmed the order of rejection of bail dated 07.07.2017 by the J.M.F.C.

2. As per the prosecution case, the petitioner being a property dealer was instrumental to sell the land bearing Khasra No.250/4 admeasuring 1980 sq.ft for sale consideration of Rs.11,04,900/- to one Prabha Patel, therefore, a complaint was filed and the offence under Section 420, 467, 468, 471, 120-B read with Section 34 of I.P.C. was registered against the petitioner and other co-accused.

3. Learned counsel for the petitioner would submit that the charges in this case have been framed on 12.04.2017 and thereafter the case was fixed for evidence on 26.04.2017 and within 60 days the trial has not completed, therefore, the petitioner is entitled for bail under Section 437(6) of Cr.P.C.

4. Per contra, learned State counsel opposes the bail and submits that considering the nature of the allegation against the petitioner as he has deceived the persons who are in need of the plots and has collected money and committed fraud, therefore, the petitioner may not be released and no considerable delay has been caused in this case; consequently, the petition deserves to be dismissed.

5. Perused the documents filed alongwith the petition. The document shows that the charges were framed on 12.04.2017, thereafter, the case was fixed for evidence on 26.04.2017. The document would show thereafter the case was fixed for 10.05.2017, 12.05.2017, 05.06.2017, 19.06.2017, 03.07.2017, 17.07.2017, 28.07.2017, 11.08.2017, 23.08.2017, 11.09.2017 & 13.09.2017 and in all the dates few of the witnesses were examined on behalf of the prosecution.

6. In case of ***Atul Bagga v. State of Chhattisgarh*** reported in ***2009 (3) C.G.L.J. 448,*** it has been laid down that the power under Section 437(6) of Cr.P.C. is not a mandatory provision and the application under Section 437(6) of Cr.P.C. can be dismissed if sufficient grounds are available.

7. Perusal of the prima facie documents, which are part of this petition shows that the petitioner in connivance with the other persons has deceived the people who are in need of the plot and has sold the part and partial of the plot by taking huge amount to different persons. Considering the plight of the victims and facts and circumstances of the case and further considering the fact that the petitioner is in custody since 28.02.2017 and the documents would suggest that in all the dates the prosecution was enough vigil to bring the witness and no considerable delay has

been caused taking into nature of the allegation, therefore, I am not inclined to interfere with the orders passed by the learned Court below.

8. In view of the above, the petition *sans merit* and is accordingly dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok