HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1118 of 2017

Vishwaprakash Dubey, S/o. Shri Umashanker Dubey, Aged About 30 Years, R/o. Aditya Nagar, Mohan Nagar, Durg, District Durg, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through Superintendent Of Police, Raipur, District Raipur, Chhattisgarh.

---- Respondent

For Petitioner : Mr. T.K.Jha, Advocate

For Respondent : Mr. Neeraj Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15.11.2017

Heard

1. The instant petition is against the order dated 01.08.2017 passed by the Sessions Judge, Raipur, in Criminal Revision No.310/2017 whereby the revisional Court has affirmed the order of rejection of bail dated 12.07.2017 by the J.M.F.C. under Section 437(6) of Cr.P.C.

2. Learned counsel for the petitioner submits that the petitioner was arrested on 05.01.2017 and on 11.04.2017 the charges were framed, thereafter, the case was fixed for evidence on 25.04.2017 and till last date of hearing, no evidence has been adduced. It is stated that without any reasonable cause for number of days the witnesses have remained absent. Therefore, as per terms of Section 437(6) of Cr.P.C. the petitioner may be released on bail.

3. Learned State counsel opposes the prayer for grant of bail.

4. Perused the documents as also the order. The order would show that the charge was framed against the petitioner on 11.04.2017.

The allegations against the petitioner was that in order to provide employment in the police department, he had obtained an amount of Rs.16,20,000/- from different persons, thereby he had committed fraud.

5. Perusal of the documents would show that after the charges were framed on 11.04.2017, the case was fixed for evidence on 25.04.2017 and thereafter on 09.05.2017, 23.05.2017, 06.06.2017, 20.06.2017, 04.07.2017, 18.07.2017, 31.07.2017, 11.08.2017, 26.08.2017, 08.09.2017, 06.10.2017, 12.10.2017 and now 26.10.2017.

6. The State counsel was directed to enquire about the stage of trial. It is submitted that when the case is fixed for hearing on 08.11.2017, no witness appeared and again the case was adjourned.

7. Perusal of the record would show that the summons though issued to the witnesses, it has returned unserved. In view of this fact, it appears that no sufficient reason exists on the face on record why the witnesses have not turned up, therefore, I am inclined to grant the benefit of Section 437(6) of Cr.P.C. to the petitioner.

8. In a result, the petition is allowed and 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 and the petitioner shall keep himself present on each day of hearing unless exempted.

Sd/-
(Goutam Bhaduri)
Judge

Ashok