

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1262 of 2017**

1. Sunil Kumar Vaishnav @ Sonu S/o Khemdas Vaishnav, Aged About 23 Years R/o Bhajandeepa Jutmil, Raigarh, Tahsil & District Raigarh, Chhattisgarh.
2. Yogesh @ Golu Chouhan, S/o Pradeep Chouhan, Aged About 19 Years R/o Bhajandeepa Jutmil, Raigarh, Tahsil & District Raigarh, Chhattisgarh.

---- Petitioners**Versus**

State Of Chhattisgarh Through The Station House Officer, Kotara Road, Raigarh, District Raigarh, Chhattisgarh.

---- Respondent

For the Petitioners	: Smt. Hamida Siddique alongwith Shri Raghvendra Verma, Advocate.
For the Respondent/ State :	Shri Vivek Singhal, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.10.2017**

1. Heard.
2. This petition has been brought by the petitioners under Section 482 of the Code of Criminal Procedure with a prayer to quash the impugned order of the First Additional Sessions Judge, Raigarh, District Raigarh, Chhattisgarh in Criminal Revision No. 74 of 2017 by which the order of the trial Magistrate rejecting of application under Section 437(6) of the Cr.P.C. has been upheld.
3. It is submitted by counsel for the petitioners that the petitioners are facing prosecution under Section 392/ 34 of the Indian Penal Code. After framing of charge on 29.12.2016, the first date of hearing was fixed on

11.7.2017. The prosecution was unable to complete the recording of the prosecution evidence and as such, under the provision of Section 437(6) of the Cr.P.C. an application was moved by the petitioners for grant of bail. The same has been decided by the trial Court on 18.5.2017 and rejected. Criminal Revision No. 74 of 2017 filed against the said order has been decided on 11.7.2017 by the First Additional Sessions Judge, Raigarh whereby the order of the trial Court has been upheld. Hence, this petition.

4. Learned counsel for the petitioners submits that the petitioners are in jail since 21.5.2016 and there is no possibility of conclusion of trial in the near future. On the basis of entitlement under Section 437(6) of the Cr.P.C., the petitioners be enlarged on bail.

5. Learned State counsel opposes the petition and the submissions made on behalf of the petitioners. It is submitted that the offence charged against the petitioners is of grave nature which has an impact on the society, hence, for these reasons they are not entitled for grant of bail.

6. Heard counsel for both the parties, perused the documents and the case-diary.

7. It has been held in various judgments of this Court as well as superior Courts that the gravity and nature of the offence charged against the accused persons need not be taken into consideration while considering grant of bail under Section 437(6) of the Cr.P.C. It has been held by this Court in the case of **Atul Bagga vs. State of Chhattisgarh and Others**

reported in **2010(1) C.G.L.J. 132** that when the offence is of huge magnitude and affects the society at large, in that case the prayer under Section 437(6) of the Cr.P.C. can be rejected. Further, in the case of **Suneshwar Singh Thakur vs. State of Chhattisgarh**, the guidelines have been laid down by this Court regarding the grounds on which the prayer under Section 437(6) of the Cr.P.C. can be rejected.

8. Considering the facts and circumstances of this case, no such ground is made out as per the directions given in **Suneshwar Singh Thakur vs. State of Chhattisgarh**, hence, in this case the petitioners are entitled for grant of bail.

9. Consequently, the petition is allowed and the impugned order passed by the trial Court is hereby set aside.

10. It is directed that the petitioners shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge