

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 737 of 2017

- Shashikant Mishra S/o Tribhuwan Mishra Aged About 26 Years
R/o E W S 1786, Housing Board Jamul, Police Station- Jamul,
District- Durg, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through District Magistrate, Durg, District
Durg Chhattisgarh

---- Respondent

For Petitioner
For Respondent

Shri Shrawan Agrawal, Advocate
Ms. M. Asha, PL

Hon'ble Shri Justice P. Sam Koshy

Order On Board

10/07/2017

1. This is a repeat application under Section 437 (6) of the Cr.P.C.
The earlier application was disposed of by this Court on
15.10.2016 in Cr.M.P. No.1113/2016.
2. Repeating the application, learned counsel for the petitioner
submits that the petitioner is in jail since 03.10.2015 and as such
has by now remained in jail for almost 21 months. He further
submits that the prosecution in the instant case has cited about
41 witnesses, but till date only 7 witnesses have been examined.
He further submits that even after the disposal of the earlier
Cr.M.P. on 05.10.2016, till date, though 9 months have passed,

only one witness could be examined by the prosecution and in the given pace, the trial may take considerable period of time and there are few more accused who are absconding, which may further prolong the trial and, therefore, prayed that the case of the petitioner atleast may be considered invoking the provisions of Section 437 (6) of the Cr.P.C.

3. Learned State counsel, however, opposes the petition on the ground that the allegations made against the petitioner are serious and that there is a memorandum of statement also given by the petitioner/accused himself to substantiate the case of the prosecution and thus prayed for the rejection of the petition.
4. Having considered the rival contentions putforth on either side and on perusal of the records, it clearly reflects that the petitioner is in jail for almost 21 months and that till date only 7 witnesses have been examined during this period and the total witnesses cited are 41.
5. Considering the manner in which the prosecution is not taking interest in getting the trial concluded at the earliest by not producing the witnesses promptly, this Court is of the opinion that it is a fit case where the provision of Section 437 (6) of the Cr.P.C. has to be invoked. Accordingly, the present Cr.M.P. stands allowed. The petitioner shall be released on bail on his furnishing a personal bond in the sum of Rs.20,000/- with one surety for the like sum to the satisfaction of the trial Court for his appearance before the Registry of this Court on 09.10.2017 and

thereafter before the concerned trial Court on a date to be fixed by the Registry and thereafter on all such subsequent dates as would be given by that trial Court.

6. It is made clear that the petitioner herein shall render all cooperation to the prosecution for an expeditious trial and there shall be no lacking or lagging on part of the petitioner in delaying the trial.
7. With the aforesaid observation, the Cr.M.P. is allowed and disposed.

Sd/-

P. Sam Koshy

Judge

Nirala