

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 884 of 2018**

Purushottam Prasad Tiwari S/o Bholaram Tiwari Aged About 58
 Years R/o- Village- Ulkhat, P.S.- Kosir, Tahsil- Sarangarh, District-
 Raigarh, At Present Resident of Kurumkela, P.S.- Bagicha, District-
 Jashpur, Chhattisgarh. --- **Petitioner**

Versus

State of Chhattisgarh through the Station House Officer, Police
 Station- Bagicha, District- Jashpur, Chhattisgarh. ---
Respondent

For the applicant	:	Mr. J. K. Saxena, Advocate.
For the Respondent	:	Mr. Sangharsh Pandey, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****19.07.2018**

1. This is a petition filed u/s 482 of the Code of Criminal Procedure against the order dated 22.03.2018 passed in Criminal Revision No.10/2018 by the Sessions Judge, Jashpur. By such order the Revisional Court has affirmed the dismissal of an application u/s 437(6) of Cr.P.C., by the JMFC dated 27.01.2018.
2. Learned counsel for the petitioner submits that the petitioner was arrested on 13.11.2016 and after framing of the charge on 09.03.2017, the first date of evidence was fixed on 20.03.2017, thereafter within 60 days, the trial was not concluded, therefore, the petitioner is entitled for bail in pursuance of the provisions of section 437(6) of Cr.P.C.
3. Learned State Counsel opposes the bail and submits that the petitioner being a public servant on the basis of the forged document has withdrawn an amount of Rs. 95,88,039/- and got it deposited in his own account, therefore, taking into the gravity of the offence, the petitioner may not be enlarged on bail especially under the provision

of section 437 Cr.P.C.

4. A perusal of the record would show that the petitioner was arrested on 13.11.2016 in connection with crime No.208/ 2015 for the offence punishable u/s 409, 467, 468, 471 of IPC. The allegation was that the petitioner being a public servant had prepared forged and fabricated documents and on that basis withdrawn the amount of Rs.95,88,039/- from the State Bank of India, Bagicha. The charges were framed on 09.03.2017 and thereafter the case was fixed for evidence. However, the evidence could not be concluded.
5. The provisions of section 437(6) Cr.P.C., cannot be taken as a mandatory in nature, it varies from case to case qua the nature of allegations. Here in the instant case, the petitioner who was a public servant on the basis of the forged document has withdrawn an amount of more than Rs.95 lakhs, therefore, that cannot be equated to the period already spent in jail qua section 437(6) Cr.P.C. The court cannot ignore the fact of repercussion and the effect in nature like this case while granting the bail looking to the gravity of offence committed by the accused. The reasons which have been assigned by both the courts below while denying the bail appears to be logical and no straight jacket formula could be possible to make applicable the provisions of section 437(6) of Cr.P.C. for grant of bail.
6. In view of the background and facts situation of the case, I am not inclined to enlarge the applicant on bail. Accordingly, this petition is dismissed at the admission stage.

Sd/-

**GOUTAM BHADURI
JUDGE**