

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 984 of 2018

Ajit Tiwari S/o Ravindra Nath Tiwari Aged About 35 Years R/o- Gurh, Bhagat Singh Ward No. 10, P.S. And Tahsil Gurh, District- Rewa, (M.P.)

---- Petitioner

Versus

State Of Chhattisgarh Through- The Police Station Pipariya, District- Kabirdham, Chhattisgarh

--- Respondent

For Petitioner	:	Shri Raghvendra Pradhan, Advocate
For Respondent/State	:	Shri Ashish Shukla, Dy. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/09/2018

Heard.

1. This petition under Section 482 Cr.P.C. is directed against rejection of the revision petition. The petitioner is facing trial for alleged commission of offence under Section 419, 420, 467, 468 & 471 of IPC and the trial is going on before the Judicial Magistrate First Class Kawardha. As the trial was not concluded within a period of 60 days from the first date fixed for taking evidence, an application under Section 437(6) of Cr.P.C. was filed which was rejected by the trial Court vide order dated 01.03.2018. Revision was also dismissed giving rise to this petition.

2. Relying upon the order passed by this Court in the case of **Suneshwar Singh Thakur Vs. State of Chhattisgarh**, learned counsel for the petitioner would submit that as the applicant has remained in jail since 13.11.2017 and the prosecution evidence began only on 16.02.2018 and thereafter it has not been concluded within the time stipulated under the law, in the present circumstances of the case, the period of detention, nature and gravity of allegation and the material the appellant is entitled to grant of bail. It is also argued that the reason stated by the Magistrate and the Revisional Court, are not sufficient to warrant rejection of his application.

3. On the other hand, learned State counsel opposes the prayer and submits that looking to the nature and gravity of allegation and further that the prosecution

cannot be held responsible for delay in conclusion of trial and further that the applicant is not entitled to bail as of right merely because trial has not been concluded within 60 days, the application has been rightly rejected.

4. This Court finds that applicant is alleged to have committed offence of cheating and forgery and it is said that in two cheques, each of Rs. 15,00/-, interpolated were made in the manner that in the first cheque, six was prefixed and in the second cheque, seven was prefixed and in the manner, the case of the prosecution that the applicant by this cheating was able to draw huge amount of Rs.1,33,000/-. The trial has not been concluded in 60 days. The impugned order shows that the applicant was in jail and on certain dates, as the applicant could not be presented under production warrant, the prosecution witness could not be examined. But then, there is nothing on record to show that the defence is responsible for delay in trial. Therefore, taking into consideration the totality of the circumstances, nature and gravity of allegation, amount involved and period of detention and the reason assigned for delay in conclusion of trial, relying upon the law laid down by this Court in the case of *Suneshwar Singh Thakur (supra)*, I am inclined to allow the petition. Therefore, the petition is allowed. The impugned order is set aside.

5. The petitioner shall be released on bail on his furnishing personal bond of Rs.20,000/- with two local sureties of the like amount to the satisfaction of the Trial Court. He shall appear before the Trial Court on each and every date of hearing, unless exempted.

Sd/-
(Manindra Mohan Shrivastava)
Judge