

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1977 of 2018

- Ramnivas Pal S/o Vedram Pal, Aged About 45 Years, R/o Village Nagarpal Shahjahanpur, P.S. Dakshini South, District- Shahjahanpur, Uttar Pradesh, District : Shahjahanpur, Uttar Pradesh

---- Petitioner/Applicant

Versus

- State Of Chhattisgarh Through P.S. Pandri, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

----Respondent

For Petitioner/Applicant – Shri Anjani Kumar Singh with Shri Akash Kumar Kundu, Advocates.

For Non-applicant/State – Shri A.N. Bhakta, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-01-2019

1. Petition under section 482 of the Cr.P.C. has been brought challenging the order dated 31-08-2018 passed by the Court below in Criminal Revision No.295/2018 by which the prayer made by the applicant/petitioner under Section 437(6) of the Cr.P.C. was rejected.

2. It is submitted that the FIR was lodged in this case on 15-02-2011 and subsequent to that, the applicant was arrested on 07-08-2014. After filing of the charge sheet charges were framed against the applicant on 27-09-2017 and till completion of 60 days trial was not completed, the application filed by this applicant for his release under Section 437(6) of the Cr.P.C. was rejected by order dated 22-02-2018, which was challenged before the Sessions Court in Criminal Revision No.295/18 which was again rejected vide order dated 31-08-2018 mentioning the ground that the matter of release of the applicant on bail has been considered and dismissed by the High Court as well as Hon'ble the Supreme Court, hence, revisional Court cannot consider and decide the same on the ground of propriety. It is submitted that only allegation against the applicant is that he is Electronic Engineer working for Aptech Computers, his

services were hired by Speak Asia to prepare binary plan in the electronic mode so that it could be accessed by the persons concerned. This applicant was not one of the beneficiaries, he has simply provided his services without any intention to cheat any person. It is submitted that the applicant is in jail since about more than 4 years and the trial against him has still not made any progress seeking its completion, as the witnesses are not appearing before the Court. Reliance has been placed on the order of this Court in **Mukesh Das Vs. State of Chhattisgarh**, dated 14 December, 2017 passed in CRMP No.1385 of 2017 and on the order dated 14-02-2017 passed by this Court in the matter of **Santosh Dubey Vs. State of C.G.** in CRMP No.1326 of 2016, wherein, in both the cases it was held by this Court that the factors which should be kept in mind while considering an application under Section 437(6) would be different from the factors that are to be taken into consideration while deciding an application for regular bail. Section 437(6) of the Cr.P.C. while on one side provides an absolute right in favour of the applicant to secure bail, at the same time puts a check on the said right by conferring jurisdiction upon the Magistrate to reject the application for the reasons to be recorded in writing. Similarly, reliance has been placed on the matter of **Suneshwar Singh Thakur Versus State of Chhattisgarh**, order dated 10 March, 2017 passed by this Court in CRMP No.1447 of 2016.

3. Learned State counsel opposes the grounds mentioned in the petition and the submission made in this respect submitting that it is a case of commission of offence at huge scale involving numerous aggrieved persons. The applicant has made all efforts for grant of regular bail upto the filing of bail application before Hon'ble the Supreme Court and he was not granted relief. The applicant is already in jail in connection with another crime therefore, there are reasons present to be recorded in writing for rejecting the application under Section 437(6) of the Cr.P.C., therefore, the petition is without any substance.

4. Heard learned counsel for the parties and perused the record.

5. This applicant had filed application for grant of regular bail before this Court twice, MCRC No. 3354 of 2015 and MCRC No.2582 of 2016, which have been decided on 14-08-2015 and 08-07-2016 respectively. Thereafter, the applicant had approached Hon'ble the Supreme Court of India by filing SLP (Cr.) No.7038/2016 which has been dismissed.

6. Considered on the grounds and the reasons that have been mentioned in the order rejecting the application under Section 437(6) of the Cr.P.C. by the trial Court and by the revisional Court. The applicant has been denied bail so far on the ground on the merits of the case and the case involves grievances of numerous persons as well as involvement of huge amount that have been defalcated, hence, looking to the enormity of the crime committed, I am of this opinion that the reasons mentioned for rejection of application under Section 437(6) of the Cr.P.C. are proper, therefore, I do not find any reason to exercise the inherent jurisdiction under Section 482 of the Cr.P.C. to grant relief to the petitioner/applicant. Hence, after due consideration the petition is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge