

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPCR No. 879 of 2019**

Neeliofar Sheikh, W/o Late Saiyyad Sahid, Aged about 28 years, R/o Near Das Nal, Shantoshi Nagar Police Station, Tikrapara, Raipur, Tahsil and District Raipur, Chhattisgarh through her father Shekh Salim S/o Late Khuda Baksh, Aged about 58 years, R/o Near Das Nal, Shantoshi Nagar Police Station, Tikrapara, Raipur, Tahsil and District Raipur, Chhattisgarh.

---Petitioner**Versus**

State of Chhattisgarh, through the District Magistrate, Raipur, District Raipur, Chhattisgarh.

---Respondent

For Petitioner	:- Mr. Ashish Surana, Advocate
For State	:- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****09/01/2020**

1. Petitioner is an accused standing trial for offence punishable under Sections 4, 5 and 7 of Immoral Traffic (Prevention) Act, 1956. Her application for regular bail has been rejected by this Court in MCRC No. 1291/2019 and 2753/2019. Now, petitioner's application under Section 437 (6) of the Cr.P.C. for release on

default bail as the trial could not be completed within 60 days from the first date of evidence i.e. 04/06/2019 has been rejected by the trial Court holding that looking to the gravity and seriousness of the offence, petitioner herein cannot be extended the privilege of default bail which has also been affirmed by the revisional Court vide order impugned dated 21/08/2019 against which this writ petition has been preferred.

2.Mr. Ashish Surana, learned counsel for the petitioner would submit that both the Courts below have legally erred in rejecting petitioner's application as Section 437 (6) of the Cr.P.C. is mandatory in nature and once a trial could not have been concluded within a period of 60 days from the first date of evidence, the accused is entitled for privilege of default bail under Section 437 (6) of the Cr.P.C. He would rely upon the decision of this Court in Cr.M.P. No. 1326/2016 (*Santosh Dubey v. State of Chhattisgarh*) decided on 14/02/2017.

3.Learned State counsel would oppose the submission made by learned counsel for the

petitioner and would support the impugned order.

4. I have heard learned counsel for the parties at length.

5. True it is that the trial could not be concluded within 60 days from the first date of evidence i.e. 04/06/2019, but the fact remains that the provision contained under Section 437 (6) of the Cr.P.C. is not mandatory rather it is discretionary. Learned trial Court has considered petitioner's application in detail and considering the nature and gravity of the offence, has exercised discretion in favour of not extending the privilege of bail to the petitioner herein which has also been affirmed by the revisional Court.

6. The discretion so exercised by the trial Court while passing the order dated 05/08/2019 thereby, rejecting petitioner's application under Section 437 (6) of the Cr.P.C. is neither perverse nor contrary to law rather it is a sound exercise of discretion, therefore, I do not consider it a fit case to interfere with the purely discretionary order passed by

learned trial Court as affirmed by the revisional Court.

7. This writ petition under Section 482 of the Cr.P.C. is accordingly dismissed reaffirming the order passed by the trial Court. However, the trial Court is directed to conclude the trial within a period of two months from the date of receipt of a copy of this order.

8. A copy of this order be sent to the concerned trial Court by e-mail/fax for needful and compliance within two days from today.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet