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HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2328 of 2018**

- Kapil Kumar Chandrakar, S/o Late Shri Tulsi Ram Chandrakar, aged about 31 Years, R/o Village Dhaneli, Post Kolegaon, Police Station Kunda, Tahsil -Pandariya, District Kabirdham Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Station House Officer, Police Station Kunda, District Kabirdham Chhattisgarh.
2. Shrawan Kumar Sahu, S/o Shri Jodhiram Sahu, aged about 44 Years, R/o Village Dhaneli Post Kolegaon, Police Station Kunda, Tahsil -Pandariya District Kabirdham Chhattisgarh.

---- Respondent

For Petitioner	Shri Yogendra Kumar Chandra, Advocate.
For State	Shri B.L. Sahu, P.L.
For Respondent No.2	Shri Akath Kumar Yadav, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****09/02/2021**

1. Heard on admission.
2. The Petitioner has filed the instant CRMP under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973 for setting aside the order dated 21.08.2018 passed by the Judicial Magistrate 1st Class, Pandariya, District Kabirdham, C.G. granting bail to respondent No. 2 Shrawan Kumar Sahu who was arrested in connection with crime No. 185/2017 registered at Police Station Kunda, District Kabirdham, C.G. for the offence

punishable under Sections 420/34 of Indian Penal Code.

3. Learned counsel for the petitioner submits that trial Court while granting bail to respondent No.2 Shrawan Kumar Sahu has failed to consider that the respondent No.2 has committed cheating with several persons, prosecution witnesses namely Punita Bai and Rukhmin Bai were present before the trial Court on 08.06.2018 as well as on 24.07.2018 and further on 10.08.2018 also number of prosecution witnesses were present but they could not be examined without there being any fault on the part of the victims.
4. From perusal of the order dated 21.08.2018 granting bail to respondent No.2 under Section 437(6) of Cr.P.C., it is seen that the matter was first fixed for recording of evidence on 04.05.2018 but till 10.08.2018 evidence of none of the prosecution witnesses could be recorded. It was further observed that there was no fault on the part of respondent No.2/accused in non-recording of evidence of the prosecution witnesses till 04.05.2018. Therefore, considering the detention period of the applicant, delay in recording of evidence of the prosecution witnesses and conclusion of the trial which was not at all attributable to the accused, the trial Court having found it a fit case under Section 437(6) of Cr.P.C. granted him bail on certain conditions. It is a well settled principle of law that parameters for grant of bail and cancellation of bail are quite different. In this case, the petitioner has failed to show that respondent No.2 Shrawan Kumar Sahu is in any manner misusing the liberty granted to him by the trial

Court or tampering with the evidence or intimidating or influencing the witnesses acquainted with the facts of the case or preventing them from disclosing such facts to the Investigating Officer or any other authority. The reasons assigned by the trial Court for granting bail to respondent No.2 Shrawan Kumar Sahu cannot be said to be faulty.

5. Accordingly, the CRMP being without any substance is liable to be dismissed and is dismissed as such at the admission stage.

Sd/-
Gautam Chourdiya
Judge

Akhilesh