

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1707 of 2017

Mukesh Kumar, S/o. Late Brijlal Sahu, Aged About 47 Years, R/o. Village Palari, P.S. Gurur, District Balod, Chhattisgarh.

---- **Petitioner**

Versus

State Of Chhattisgarh, Through Station House Officer Of Police Station Arjunda, Balod, Chhattisgarh.

---- **Respondent**

 For Petitioner : Ms. Aditi Singhvi, Advocate
 For Respondent : Mr. Dheeraj Wankhede, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

29.11.2017

Heard

1. The instant petition is to discharge the petitioner from the Sessions Trial No.18/2017 pending in the Court of First Additional Sessions Judge Balod in Crime No.315/16 under Sections 304, 286 read with 34 & 308 of I.P.C. alongwith Section 3 & 4 of the Explosive Substance Act, 1908.
2. Learned counsel for the petitioner would submit that the date of incident is 09.11.2016, the petitioner who was the stock holder of the explosive was without any stock on the date of incident and no role has been played by him. The counsel referred to the copy of stock register and would submit that the stock of the explosive on 09.11.2016 would show that it is nil, therefore, no inference can be drawn that the explosive which has caused death of two of the labours are supplied by the present petitioner. It is further submitted that only on the basis of the seizure of motorcycle from

the spot, the name of the petitioner is being inculpated in this case, though the registration office record would show that he was not the owner of the said vehicle; consequently, there is no iota of evidence against the petitioner.

3. Perused the documents. The charge sheet would suggest that on 09.11.2016 while the blast in the bore was being conducted, two persons namely Thalesh Kumar and Ramdev died on the spot. The statement of one of the injured Mahetaru would show that the blast occurred while two of the persons tried to perform blast at their bore-well. The statement of Kumari Bai would show that before that the present petitioner who was the contractor for holding the explosive came on the date of incident and took one of the deceased with him and disclosed that some blast was to be performed in the bore-well. The documents filed alongwith the petition would show that the petitioner was an explosive stock holder and the fact that he was not holding a stock, at this stage, cannot be appreciated as against the statement of Kumari Bai & Jagdish. They have categorically attributed the allegation that the present petitioner who was the stock holder of the explosive has summoned his son and thereafter they went to do the blast in the bore-well and the incident happened.
4. The scope of interference and exercise of jurisdiction under Section 397 of Cr.P.C. was discussed by their Lordship in case of ***State of Rajasthan v. Fatehkaran Mehdu***, reported in ***AIR 2017 SC 796*** wherein it is stated that at the stage of framing of a charge, the Court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an

offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage final test of guilt is to be applied.

5. In view of the above, the petition has no merit and accordingly it is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok