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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-5219-2017

Decided on : July 20, 2017

SATISH

....PETITIONER

VERSUS

KITABO AND ANOTHER

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Surinder Singh Virk, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

Mr. Abhinav Gupta, Advocate/Amicus Curiae
for the complainant.

RAMENDRA JAIN, J (ORAL)

In the instant petition under Section 438 Cr.P.C. prayer has been made for grant of pre-arrest bail to the petitioner-Satish in complaint case No.58 dated 05.02.2012 titled as 'Kitabo versus J.P. Verma etc.' under Sections 307, 217, 218, 219, 302, 120-B and 34 IPC.

Briefly stated that deceased-Kanwaljeet son of respondent-Kitabo and the petitioner were working as labourers in ABC `Company. On 05.02.2012, when deceased-Kanwaljeet was taking cloth from the Packing room, at that very moment, the petitioner was cleaning his shoes with the help of a thinner. The petitioner, threw a match stick, on the thinner cane, as a result of which, the cane exploded and Kanwaljeet caught fire and later on, succumbed to his injuries in the hospital after 8

months, on 26.10.2012. The incident was reported to the police, whereupon, it recorded the statements of the eye witnesses of the incident. Since none was found guilty for the death of deceased-Kanwaljeet, the Police closed the case without taking any action against any one. Thereafter, on 05.03.2012 respondent-complainant-Kitabo made representation to the Inspector General of Police to reinvestigate the matter, but no action was taken by the police, therefore, she filed a criminal complaint in the Court.

Learned counsel for the petitioner contends that there is no direct evidence against the petitioner about his *mens rea* to commit the death of Kanwaljeet Singh, son of respondent No.1. The police had thoroughly investigated the matter before closing the case and found none guilty for the death of Kanwaljeet Singh.

On the other hand, learned counsel for respondent No.1 has vehemently opposed the bail to the petitioner by contending that the Investigating Officer-Hawa Singh had closed the case, without proper investigation in the matter, and thus he has also been summoned to face trial in the instant case. Motive has also been attributed to the petitioner, therefore, the petitioner does not deserve the concession of bail.

After giving thoughtful consideration to the submissions made by both the sides, this Court is of the view that the petitioner is entitled to pre-arrest bail, because undisputedly, the petitioner and the deceased-Kanwaljeet Singh were working as labourers in the same factory. There is no evidence on the record to show *prima facie* that the petitioner had any intention to commit the death of Kanwaljeet Singh. The State, in its reply, in the form of affidavit of Jagdeep Singh, Deputy Superintendent of Police,

Panipat, has specifically mentioned that none was responsible for the incident in which Kanwaljeet Singh died. The petitioner as well as Kanwaljeet Singh both, had received injuries.

In view of the above, petitioner is granted anticipatory bail, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Illaqa Magistrate. The petitioner shall be bound by the conditions enumerated in Section 438(2) Cr.P.C.

Anything observed hereinabove shall not be construed to mean as an expression of opinion on the merits of the case, while deciding the petition by the trial Court.

The petition is disposed of accordingly.

July 20, 2017

rajneesh

**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No