

**Sr. No. 229
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM No. M-24436 of 2015
Date of decision: 19.01.2016**

Bittoo

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Ram Bilas Gupta, Advocate,
for the petitioner.

Mr. Anmol Malik, A.A.G., Haryana.

Mr. S.K. Biriwal, Advocate,
for injured.

TEJINDER SINGH DHINDSA, J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in FIR No.479 dated 01.08.2014 under Sections 323, 506 and 120-B of Indian Penal Code and subsequently Section 307 IPC added, registered at Police Station City Ballabgarh, District Faridabad.

FIR was registered on the statement of Prem. Occurrence is stated to be of 30.07.2014 in which son of the complainant, namely, Umesh is stated to have suffered injuries.

Initially FIR was registered under Section 323, 506 and 120-B IPC and subsequently Section 307 IPC has been added.

Present petition is vehemently opposed by State counsel as also counsel for the injured on the ground that the injury which has attracted offence under Section 307 is directly attributed to the present petitioner. That apart, it has been stated that even at present

medical condition of injured Umesh is not stable and he is not even in a condition to make a statement.

Having heard learned counsel for the parties, this Court is of the considered view that the present petitioner is entitled to the benefit of bail. Even as per complainant's version, Umesh was hit on the head by a baseball bat and such blow has been attributed to the present petitioner. Other co-accused, namely, Neeraj, Sanjay, Neetu and Soni are also stated to have caused injuries to Umesh with lathis and dandas.

It has gone uncontroverted that Prem i.e. complainant was not present on the spot and as such was not an eye-witness to the incident. He himself in his statement has said that he had made inquiries in the matter and thereupon came to know that it was the petitioner who had hit Umesh with a baseball bat. It is a case of hearsay evidence.

Under such circumstances, the question is whether offence under Section 307 IPC is made out against the present petitioner would be a moot question.

The petitioner has been in custody since 03.08.2014. The trial has not made much progress till date.

Keeping in view the observations made above, coupled with length of incarceration already suffered by the petitioner, he is held entitled to the benefit of bail. Petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate Faridabad.

It is made clear that the observations made in this order

are confined only as regards considering the prayer of the petitioner
for grant of bail and would have no bearing on the merits of the case.

January 19, 2016

Vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**