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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-42367 of 2016****Date of decision: November 28, 2016**

Radhey Sham

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI**Present:** Mr. A.S. Cheema, Advocate for the petitioner.

A.B. CHAUDHARI, J (Oral)

This is a second petition for regular bail filed by the petitioner in FIR No.79 dated 07.11.2015, under Sections 307, 323, 341, 34 of Indian Penal Code, 1860, registered at Police Station Mansa City, District Mansa. Earlier this Court had rejected the petition for grant of bail to the petitioner.

Learned counsel for the petitioner contended that the petitioner deserves to be enlarged on bail in view of his role prescribed to me that he had given a blow with the iron pipe on the head and forehead of the complainant. According to him, the injury was not on a vital part of the body and the petitioner is therefore, entitled to grant of regular bail. In order to appreciate the contention raised by the petitioner, I have gone through the FIR in question. The relevant portion from the FIR is quoted below for convenience:-

“xxxxxx. While I was going through main gate which is on the back side of Anaj Mandi and was proceeding towards

my house and was little behind on Sirsa Raod which proceeds towards Jawaharke Chungi, then at that time Radhey Sham son of Biraj Lal r/o War No.24 Mansa armed with iron pipe along with three other persons to whom I do not know but can identify if brought before me. Out of those, one was having gandasa, second was armed with ghop and 3rd was armed with iron pipe came in front of my motor cycle and on account of fear I stopped my motor cycle. On this Radhey Sham raised lalkara that I should not be go scot free today and gave a blow with his pipe towards my head with an intention to kill me. On this I raised my right hand to save myself and the iron pipe hit on my wrist and my right hand. Then one more blow was given on my head and I again raised my left arm to save myself and the iron pipe hit on the elbow of my left arm. Radhey Sham gave 3rd blow with iron pipe on my head which hit on left side of my forehead. I fell down and other accused gave injuries to me while I was lying on the ground with their weapons on my right thigh, calf of my right leg and left ankle. I raised raula Mara-marta. xxxxxxxx.”

On a perusal of the above allegations against the petitioner, it is clear that the petitioner was the main person who raised the *lalkara* that the victim should not go scot-free and gave a blow with iron pipe towards head of the complainant, but that blow was missed because the victim put his right hand and hit the wrist. Still one more blow was given on his head which hit his left arm. The petitioner just did not stop and gave third blow on his forehead and fell down.

Thereafter, other accused persons started giving injuries to him with their respective weapons. It is clear that the petitioner had a clear

intention and that is why he had given repeated blows and last blow landed on the head which caused grievous injury. The petitioner is not entitled to grant of concession of regular bail.

Hence, the petition stands dismissed.

(A.B. CHAUDHARI)
JUDGE

November 28, 2016

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No