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

CRM-M No.10512 of 2018
Date of Decision: 20.04.2018

Raj Kumar @ Raja

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.P. Dhir, Advocate
for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

1. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.162 dated 16.09.2017, registered under Sections 308, 325, 323, 34 IPC at Police Station Garhshanlar, District Hoshiarpur.

2. Complainant Gurpreet Singh was assaulted by the petitioner with hammer blow on his abdomen. Co-accused Neeraj Kumar inflicted blow with Iron Die on left side of forehead and co-accused Ashok Kumar also inflicted blow with Pipe Wrench on the left knee of the complainant.

3. As per medico legal report, four injuries were found on the person of the complainant. Injury No.2 was a superficial

laceration on the left temporal region and the same was declared to be simple in nature. The injury on the stomach was found to be covered under Section 325/308 IPC.

4. Learned counsel for the petitioner submitted that the occurrence took place on 03.08.2017 at 02.00 P.M. The FIR was registered only on 16.09.2017. In the intervening period, only a DDR was recorded for the offence under Section 323/34 IPC. The culpability was enhanced in terms of Section 325 IPC. Statement of the injured was recorded only on 16.09.2017. Even prior thereto, the police obtained medical opinion in respect of injury No.1 which is attributed to the petitioner.

5. As per opinion of the doctor dated 14.09.2017, the said injury was declared to be grievous in nature. Offence under Section 308 IPC was added only after obtaining opinion of the doctor from P.G.I. on 28.09.2017. According to that opinion, nature of injury No.1 was declared to be dangerous to life.

6. Learned counsel further submitted that in terms of Section 320 IPC (Eightly), any hurt endangering life or which causes the sufferer to be during the space of twenty days in severe bodily pain or unable to follow his ordinary pursuits would be a grievous hurt. Any enhanced culpability in terms of opinion of the doctor would be subject to the opinion in terms of sufficiency of injury to cause death in ordinary course of nature.

There is no such opinion given by the doctor of P.G.I. on 28.09.2017 that the injury was sufficient to cause death in ordinary course of nature. The nature of injury as opined to be dangerous to life in opinion dated 28.09.2017 and grievous in nature as per opinion dated 14.09.2017 would be debated by the trial Court at the relevant time.

7. Petitioner is in custody since 03.10.2017.

8. Challan has already been presented and even charges have been framed. The prosecution evidence is fixed for 27.04.2018.

9. Taking into consideration the aforesaid attending circumstances and without meaning anything on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

10. In view of above, petition is allowed. Petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

11. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

20.04.2018
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No