

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

**CRM-M No.4615 of 2018
Date of Decision: 26.02.2018**

**Hirdeypal Singh
Vs
State of Punjab**

**.....Petitioner

.....Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Gagandeep Singh Chhina, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl., AG, Punjab.

Mr. G.B.S. Dhillon, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.194 dated 20.08.2017 registered under Sections 307, 326, 379, 323, 324, 452, 506, 148, 149 IPC read with Sections 25, 27, 54, 59 of the Arms Act at Police Station Sadar Ludhiana.

Complainant Amar Singh alleged that he along with his brother and friend Harvinder Singh was present at the spot. Petitioner armed with sword came there along with 10/12 unknown persons, who were also armed with deadly weapons like rods and swords. They entered the shop and raised *lalkara*. Petitioner inflicted a sword blow on the head of the brother of

the complainant which landed at the back of his head. Unknown persons started inflicting injuries with their respective weapons. Brother of the complainant became unconscious and fell down on the floor. When the complainant tried to save him, petitioner gave sword blow on his head which was warded off and the blow landed on the hand of the complainant. Other persons also inflicted injuries on the person of the complainant and his friend Harvinder Singh. They also caused damage to the property and committed theft of Rs.70,000/- from the cash counter box. Petitioner also took out his revolver and gave threats.

Learned counsel for the petitioner submitted that complainant and Mandeep Singh were hospitalized and were medico legally examined. Supplementary statement of Mandeep Singh was recorded on the same day. As per medico legal report, injuries No.1 and 2 were found to be grievous, whereas injuries No.3 to 5 were declared to be simple. It was only on account of injury No.2, offence under Section 307 IPC was presumed against the petitioner. Learned counsel further submitted that since the injury was declared to be grievous in nature, therefore, every grievous injury cannot necessarily attract culpability under Section 307 IPC unless and until, the said injury is declared to be dangerous to life in ordinary course of nature by the Doctor.

In the instant case, opinion of the Doctor has not been obtained and the injury endangering life in terms of Section 320 (Eighthly) IPC cannot attract offence under Section 307 IPC unless and until, it is so declared by the Doctor that the injury is sufficient to cause death in ordinary course of nature.

Learned State Counsel on instructions from ASI Paramjit Singh opposed the bail on the ground that it is not essential that bodily injury capable of causing death should have been inflicted. It is the intention which is to be seen. Since the injury was inflicted on the head of Mandeep Singh, therefore, intention of the petitioner can very well be judged from the act.

Learned counsel for the petitioner while refuting the aforesaid submission submitted that the intention of the petitioner to cause death cannot be gathered in view of the fact that he was having revolver, but he only gave threats. Had it been the case of intention, he would have used the firearm to cause death of the complainant or his brother.

Co-accused Gursewak Singh, Chhinder Pal Singh and Vikramjit Singh @ Bikramjit Singh have already been granted regular bail by this Court in CRM-M No.48933 of 2017, CRM-M No.48954 of 2017 and CRM-M No.47689 of 2017 on 15.01.2018 and 11.01.2018 respectively. It will be debatable as

to the intention of the petitioner to commit an offence under Section 307 IPC in view of the fact that he was having a firearm in his possession at the time of commission of alleged offence. The nature of injury is shown to be grievous in nature. Opinion of the Doctor has not come forth on record. It will be highly debatable as to the complicity of the petitioner in terms of offence under Section 307 IPC keeping in view the nature of injury on the person of Mandeep Singh. Any hurt endangering life would be a grievous hurt in view of Section 320 (Eighthly) and the same would fall under offence under Section 307 IPC only when it is so declared by the Doctor that the injury is sufficient to cause death in ordinary course of nature.

At this stage, without meaning anything on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

Accordingly, this petition is allowed.

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

February 26, 2018.

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No