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

**CRM-M No.12791 of 2020 (O&M)
Date of Decision: 03.06.2020**

SANDEEP @ SANDY

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

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

Present: Mr. J.S. Hooda, Advocate
for the petitioner.

Mr. Anant Kataria, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.26 dated 15.01.2020, registered under Sections 148, 149, 323, 324, 452, 506 IPC (Section 307 IPC added later on) at Police Station P.S. Sadar Ballabgarh, District Faridabad.

As per prosecution case on 14.01.2020 at about 7.00 p.m., complainant, his brother Sandeep, cousin brothers Harsh and Rohit as per daily routine were heating up in his uncle's house. Petitioner is the neighbour of the complainant. Petitioner

came inside the house of the uncle of the complainant. Firstly, petitioner abused the complainant and thereafter hit a punch blow of the sword on his left eye. Complainant fell down. When his brother Sandeep tried to save him, then the petitioner attacked his brother with the sword by giving blow on his head. Brother of the complainant warded off the blow by raising his hands. Petitioner also gave a sword blow on the left hand of the brother of the complainant. Thereafter, petitioner dragged the complainant and his brother in the street where 15-20 accomplices of the petitioner were standing along with lathis, dandas and baseball bats. All of them gave beatings to the complainant and his brother with their respective weapons on different parts of their bodies. On raising alarm, uncle and Bua of the complainant attracted to the spot and they saved them.

During course of investigation, the Investigating Agency has deleted the offence under Section 452 IPC. *Prima facie* it means that the petitioner has not entered the house of uncle of the complainant.

As per prosecution story, the incised wounds were allegedly inflicted inside the house of the uncle of the complainant. The police has recorded disclosure statement of the petitioner on these lines, whereas prosecution story is in the context of inflicting injuries inside the house. Only blunt injuries

were inflicted outside the house.

Learned counsel for the petitioner submitted that the challan has been presented and there is no such offence under Section 452 IPC on record as yet. Initially after registration of the FIR, the offence under Section 326 IPC was added. Thereafter as per opinion given by DSP, offence under Section 326 IPC was replaced with offence under Section 325 IPC. Later on the offence under Section 307 IPC was incorporated as per medical opinion.

Learned counsel further submitted that the Doctor has opined Injury No.1 as deep lacerated wound 1 cm x 0.5 cm i.e. active bleeding over left ulnar volar aspect right wrist and Injury No.2 as ulnar artery cut with active bleeding. According to prosecution these injuries were inflicted inside the house for which prosecution has already deleted the offence under Section 452 IPC in the report under Section 173 Cr.P.C.

Petitioner is in custody since 05.02.2020. Though the Doctor has declared injuries No.1 and 2 to be dangerous to life, but the place at which these injuries were inflicted would remain debatable in view of deletion of offence under Section 452 IPC by the prosecution itself.

Any hurt endangering life would be a grievous hurt in

view of Section 320 IPC (Eightly). Injury would fall under the ambit of Section 307 IPC only when the same is declared by the Doctor to be sufficient to cause death in ordinary course of nature. The very receipt of injuries whether inside the house or outside the house in view of prosecution story and the disclosure statement made by the accused in custody would remain debatable.

At this stage, without adverting to the merits of the case, I am of the view that petitioner, who is in custody since 05.02.2020 can be enlarged on bail.

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

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

June 03, 2020

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No