

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

CRM-M No.7861 of 2021

Date of Decision:-27.08.2021

Pardeep alias Bindu

.....Petitioner.

Versus

State of Haryana

.....Respondent.

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Birinder Singh Khehar, Advocate
for the petitioner.

Mr. S.S. Pannu, Deputy Advocate General, Haryana.

Mr. Munish Mittal, Advocate
for the complainant.

MEENAKSHI I. MEHTA, J.

The petitioner herein seeks the relief of regular bail in the criminal case pertaining to the FIR bearing No.0134 dated 07.04.2020 registered at Police Station Indri, District Karnal, under Sections 148, 149, 188, 323, 324, 326, 307, 506, 216 and 120-B IPC as well as Section 25 of the Arms Act, 1959.

Shorn and short of unnecessary details, the allegations, as levelled in the subject FIR, are that the petitioner, along-with his

co-accused, formed an unlawful assembly and they caused injuries to Sagar, Dilbag and Ranbir with the weapons like cutter, Gandasi etc.

The *Pairvi*/status-report, as forwarded by learned State counsel to this Court through the “*WhatsApp Group for Video-Conferencing*”, is taken on the record.

I have heard learned counsel for the petitioner as well as learned State counsel (assisted by learned counsel for the complainant) in the present petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the injury attracting the offence under Section 307 IPC in this case is attributed to the co-accused of the petitioner named Munish and the Challan has already been presented and the weapon of offence, as allegedly used in the commission of the offence, is stated to have already been recovered from the petitioner and in these circumstances, he be granted the relief as prayed for in this petition.

Per contra, learned State counsel (assisted by learned counsel for the complainant) argues that the petitioner had given a blow of Cutter on the head of injured Dilbag, an Army Personnel and when he tried to save himself, it had landed on his right hand resulting into the chopping off of the two fingers completely and cutting of the third finger in half and thus, the petitioner was a member of the said unlawful assembly and had actively participated in the crime and moreover, the complainant-injured as well as the other injured persons are yet to be examined as witnesses before the trial Court and it being so, the present petition deserves dismissal.

Even if the injury constituting the offence under Section 307 IPC was allegedly caused by the afore-named co-accused of the petitioner, even then, the fact remains that as categorically alleged by the informant-injured Dilbag in the subject FIR, the petitioner had given a blow of Cutter on his head with intention to kill him and in a bid to save himself, he had raised his right hand and the said blow landed on his hand and two fingers of his hand were completely chopped off and third finger was also cut in half. *Mens-rea*/intention is the key decisive factor to ascertain as to whether an offence under Section 307 IPC is made out or not. This fact can and shall be looked into and adjudicated upon by learned trial Court at the appropriate stage after appreciating and evaluating the evidence that may be led on the record during the course of the trial.

Moreover, the informant-injured and the other two injured persons have not yet been examined by the prosecution as witnesses before the trial Court. To add to it, this Court cannot lose sight of the fact that a group of as many as 14 assailants, including the petitioner, is alleged to have attacked the above-named injured persons and to have caused injuries to them with deadly weapons like Cutter and Gandasi etc.

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of regular bail.

Resultantly, the instant petition stands dismissed accordingly.

However, it is clarified that nothing contained here-in-before

shall be construed to be an expression of the opinion of this Court on the merits of the case.

August 27, 2021
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>