

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

**CRM-M No. 42260 of 2022(O&M)
Date of decision : September 21, 2022**

Kishan Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Hitesh Chopra, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

This is a petition filed under Section 438 Cr.P.C seeking pre-arrest bail in FIR No. 0017 dated 14.05.2022 for offences punishable under Sections 324, 323, 379-B, 427, 148 and 149 IPC, 1860 (Sections 326 and 307 IPC were added later on) registered at Police Station Nangal Bhoor, District Pathankot.

Learned counsel for the petitioner has contended that infact it is not a case of assault but there was a fight between the two parties in which injuries were suffered at both sides. While referring to the record of the case, he submits that there are two MLRs with respect to the injury suffered by Sahil Sharma on record, one is by the doctors employed with the government hospital and the other is of the private hospital. He submits that MLR given by the government hospital ought to have been given credence as compared to that which has been given by the private hospital. He further submits that the effort on the basis of the complainant party to influence the investigation is written large on the record as the size of the incised wound which has been attributed to the petitioner has been doubled

in the MLR which has been reported by the private hospital as compared to that which has been reported by the government hospital. He further submits that there is 18 hours delay in lodging the FIR which is fatal to the case of the prosecution. He thus, submits that keeping in view the aforesaid facts the petitioner should be allowed the concession of pre-arrest bail.

Mr. Gurdarshan Singh Sidhu, Asstt. A.G., Punjab on advance notice submits that infact the nature of injuries caused by the datar blow by the petitioner and the fact that he is a habitual offender and is facing three more FIRs of assault wherein the allegations of similar nature have been levelled against him, would dis-entitled him from any such relief.

I have heard learned counsel for the parties and have gone through the record of the case.

The plea raised by the learned counsel for the petitioner with respect to the delay in lodging the FIR is mis-conceived and misplaced. Once the petitioner himself is aggrieved of the fact that the version has not been recorded and action is not being taken, delay in the FIR cannot be held to the peril of the prosecution. It is also not disputed before this Court that the petitioner gave datar blow that too on the vital part of the body of Sahil Sharma.

Trite it is, in order to constitute Section 307 IPC the injury should not be necessarily capable of causing death. Section 307 IPC would be made out if there is an intention coupled with some overt act in execution thereof. Reference can be made to the law laid down in the judgment rendered by the Apex Court in **R. Parkash Vs. State of Karnataka 2004 (9) SCC 27.**

Keeping in view the seriousness of the allegations levelled
against the petitioner, no ground for grant of anticipatory bail is made out.
Consequently, the present petition stands dismissed.

(PANKAJ JAIN)
JUDGE

September 21, 2022
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Whether speaking/reasoned	Yes
Whether Reportable :	No