

209 (1st case)

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

CRM-M No.60722 of 2023 (O&M)

Date of Decision: 13.12.2023

Kulwinder Singh @ Kindu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Ms. Isha Goyal, Advocate for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.141 dated 25.05.2021, under Sections 323, 324, 148 read with Section 149 of the Indian Penal Code, 1860 (Section 307, IPC added later on), registered at Police Station, City Tarn Taran, District Tarn Taran.

(2) Short reply by way of affidavit dated 13.12.2023 of Sh. Tarsem Masih, DSP, Sub Division Tarn Taran, District Tarn Taran, along with Annexures R-1 & R-2, has been filed. The same is taken on record. Copy thereof supplied to the opposite side.

(3) Above FIR was registered on the basis of statement made by complainant-Rampal Singh with the allegations that on 21.05.2021 at about 9/9:30 p.m., petitioner along with other co-accused, armed with *datar* (sickle) & baseball bat, inflicted injuries to the complainant. When Sikander Singh, brother of the complainant, came there to rescue him, accused also inflicted

datar blows. Thereafter, the assailants decamped along with their respective weapons.

(4) Learned Counsel for the petitioner contends that injury under Section 307, IPC has not been attributed to him; rather merely a baseball bat blow is alleged to be given. Also contends that there is no other criminal case pending against the petitioner.

(5) *Per contra*, learned State Counsel on instructions from the police official concerned opposed the bail while submitting that custodial interrogation of the petitioner is required for recovery of the bat used by him.

(6) Heard learned Counsel for the parties and perused the paper-book.

(7) Perusal of the above affidavit reveals that petitioner was very well present at the time of occurrence and he allegedly gave blow with baseball bat on the waist of complainant.

(8) In view of the above, custodial interrogation of the petitioner would be the only way out for recovery of the bat and to unearth the truth. Hence, there is no option except to dismiss the petition.

(9) Ordered accordingly.

(10) The above observations may not be construed as an expression of opinion on merits of the case.

(11) Pending application(s), if any, shall also stand disposed off.

13th December, 2023
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes