

1. Prayer in the instant application is for the grant of regular bail to the applicant Budh Singh, who has been put for having committed an offence punishable under Sections 307, 295 of Indian Penal Code, in a case arising out of FIR No.102 dated 28.7.2019, registered at Police Station Nehianwala, District Bathinda.
2. Notice of the application was issued to the State and the police record perused.
3. The facts necessary for disposal of the instant bail application are that the aforesaid FIR has been registered on the basis of secret information regarding causing head injury by Budh Singh son of Sunder Singh on the person of Jiwan Singh son of Hira Singh resident of Goniana

Mandi, who is Head Granthi of Gurudwara Sahib Lakhi Jangal, by Kirpan, with intention to kill him and also hurt his religious sentiments. Thereafter the police swung into action and the aforesaid FIR has been registered. The applicant-accused was arrested on 28.7.2019.

4. Learned counsel appearing on behalf of the accused-applicant submitted that the accused-applicant has been falsely implicated in this case and there is nothing on file to connect the accused-applicant with the commission of alleged crime. He further submitted that the accused-applicant has been falsely in this case. He further submitted that there is no corroborative evidence to prove the injuries on the person of the injured. He also submitted that since the police has already filed report under Section 173 of the Code of Criminal Procedure and keeping in view that the accused-applicant has been in judicial custody since 28.7.2019 and he is no more required for any investigation. As such, no useful purpose would be served by further extending his judicial detention. With these submissions, he prayed that pending trial, the applicant-accused be released on bail.

5. On the other hand, learned Public Prosecutor has submitted that though there is no medical evidence but there is a statement suffered by the injured and as such, in view of his submission, no case is made out for the release of accused-applicant on bail. He submitted that the instant bail sans merit and is liable to be dismissed.

6. Having heard the rival submissions, besides perusing the record, however, without expressing any opinion on merits of the case, this Court is of the view that since it is a bail matter, as such, this Court is not required to comment upon the merits of the case and simply this Court is to see whether

there is prima facie material to invoke the provisions of Section 307 of the Indian Penal Code. The allegations against the accused-applicant are that he caused head injury on the person of Jiwan Singh by Kirpan, with intention to kill him and also hurt his religious sentiments. However, except the statement of injured recorded under Section 161 Cr.P.C., there is no other cogent material collected by the Investigating Officer to substantiate the version of the injured. Investigating Officer ought to have get conducted the medical examination of the injured Jiwan Singh but there is nothing on record to show that the investigation was conducted from this angle. Investigating officer ought to have produced the injured before the doctor for conducting the MLR of the injured. Investigating officer ought to have conducted the investigation, to ascertain as to from where the injured got the medical treatment, if any. Investigating Officer ought to have seized the clothes of the injured as blood must be fallen on his clothes. Further more, Investigating officer did not recover any blood stained earth from the scene of occurrence. Investigating Officer ought to have collected the other portion of the earth as sample from the scene of occurrence. Investigating Officer has not taken any pain to collect the vital evidence and this weakens the case of the prosecution qua Section 307 of the Indian Penal Code. Due to negligence of the Investigating Officer, the core of the prosecution case or substratum of the prosecution case has not remained intact. Needless to say that if the injury caused by the applicant in the manner suggested by the Investigating Officer, then it is a very serious offence of attempt to murder and in such like cases, Investigating Agency is required to investigate the matter in an efficient, effective and fair manner. However, in the opinion of

this Court, investigation cannot be said to be conducted in a transparent manner. The case of the prosecution rests on mere allegations, without any medical evidence. It is debatable as to whether Section 307 of the Indian Penal Code is made out or not, for want of cogent material in this regard. Accused-applicant is stated to be in custody since 28.7.2019 and is not required for investigation. Recovery has already been effected and the allegations against the accused-applicant are yet to be proved by the prosecution during trial.

7. Keeping in view the pre-trial detention period of the applicant, accused-applicant is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.50,000/- with one surety in the like amount, to the satisfaction of Illaqa/Duty Magistrate, subject to the condition that he shall not leave India without prior permission of the Court. Copy of this order be sent to the learned Illaqa Magistrate. Bail application file be attached with the main trial, after doing the needful.

**Pronounced:
22.10.2019.**

**(Kamaljit Lamba)
Sessions Judge,
Bathinda.
(UID No.PB0055)**