

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-217-2021 (O&M)
Date of Decision:- 5.3.2021

Subham

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ajit Sihag, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by SI Radheshyam.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 26.11.2020 passed by learned Additional Sessions Judge, Bhiwani, whereby an appeal filed by the petitioner against order dated 9.10.2020 passed by Juvenile Justice Board, Bhiwani, has been dismissed.
2. A few facts necessary to notice for disposal of this petition are that FIR in question was lodged at the instance of Karan Singh wherein it

has been alleged that his younger son Anuj aged 23 years was into business of spare parts of Bullet motorcycle along with his friend Amit. On 20.6.2020 when the complainant went to Bhiwani for purchasing some articles and at about 5.30 pm. when he reached near the shop of his son Anuj, then he heard sound of gunshot bullets in the shop of his son. He immediately rushed in front of his shop and saw that four young boys who were having their faces covered and were carrying weapons, were running away towards Vidya Nagar Gali after firing blindly at his son. The complainant's son had been shot at on his mouth, arms, shoulder, ear, cheek, chest and abdomen. The complainant's son died on account of the said injuries.

3. Learned counsel for the petitioner has submitted that he is a juvenile and is nowhere named in the FIR and has subsequently been nominated as an accused on the basis of a disclosure statement made by another co-accused namely Ashish @ Bacchi who himself came to be nominated subsequently on the basis of a supplementary statement of the complainant. It has further been submitted that the petitioner in any case has been behind bars since the last about 7 months and that till date not even a single PW out of the cited 38 PWs have been examined and in fact even the charges have not been framed so far.
4. Opposing the petition, learned State counsel has submitted that in the instant case the complainant had made a supplementary statement on 2.8.2020 wherein he named the accused as Manjit, Ashish @ Bacchi, Ashish @ Ashu Pandit and Naveen and that subsequently Asish @ Bacchi made a disclosure statement wherein he disclosed that the

petitioner had also conspired and helped in the commission of the murder in question. Learned State counsel has further submitted that during the course of investigation it had surfaced that the petitioner was a loofer kind of person and did not enjoy good reputation and as such does not deserve the concession of bail.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner was aged about 17 years at the time of incident in question. It is also not in dispute that the petitioner is neither named in the FIR nor is named in the supplementary statement wherein the complainant disclosed the names of the four persons whom he had seen coming out of the shop of his son after firing at his son. It is in the disclosure statement of one of those co-accused that the petitioner came to be nominated and the petitioner has been attributed a role of co-conspirator and is nowhere stated to have actually participated in firing upon the deceased. The veracity and admissibility of such like disclosure statement would be debatable. In any case, since the petitioner has already been behind bars since the last about 7 months and conclusion of trial/inquiry is likely to consume time as the trial has not even commenced since charges are yet to be framed and as many as 38 PWs have been cited, further detention of the petitioner will not serve any useful purpose. Consequently the petition is accepted and the impugned order dated 26.11.2020 passed by learned Additional Sessions Judge, Bhiwani and order dated 9.10.2020 passed by learned Juvenile Justice Board, Bhiwani, are hereby set aside. The

petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and subject to his surrendering passport to Court at the time of furnishing bail bonds.

7. The parents/guardian of the petitioner shall however, constantly monitor the movements and conduct of the petitioner so as to ensure that he does not get into the company of any criminals or anti-social elements.

March 5, 2021

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No