

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

CRM-M-43252-2021 (O&M)

Date of Decision:- 26.10.2021

Harjohn Singh @ Jhony

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurmohan Singh Bedi, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Harmesh Lal.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.66, dated 29.5.2021, Police Station Sadar, Gurdaspur, under Sections 302, 307, 34 IPC and Sections 25/27-54-59 of the Arms Act.
2. The FIR was lodged at the instance of Jarnail Singh wherein it is alleged that on 29.5.2021 he along with his son Gurpreet Singh, his brother Balwinder Singh, his sister-in-law Manjit Kaur w/o

Balwinder Singh had gone to their fields. While his brother Balwinder and sister-in-law Manjit Kaur were plucking ladyfinger, the complainant along with his son Gurpreet Singh were attending to the motor. It is alleged that at about 7.30 am, Johnny driver (petitioner) came in front of their fields on a "Massey" tractor belonging to Amrik Singh. Shortly thereafter Amrik Singh also came there in his car accompanied by his daughter Jyoti. Amrik Singh was carrying a .315 bore rifle slung on his shoulder and was also carrying a pistol in his right hand and started driving the tractor. It is alleged that Amrik Singh's daughter namely Jyoti raised a *lalkara* exhorting his father to till the land where ladyfinger had been sown and that in case he is stopped by anybody, then to teach them a lesson. It is further alleged that Jatinder Singh Sarpanch also raised a *lalkara* exhorting Amrik Singh to complete his job and that none should be spared. It is alleged that thereafter Amrik Singh started tilling the field where ladyfinger had been sown, with the help of a tractor and when the complainant's brother Balwinder Singh and his wife Manjit Kaur tried to stop him, Amrik Singh fired at Balwinder Singh from his pistol, hitting him on the right side of his chest. Thereafter Amrik Singh fired more shots hitting Manjit Kaur on back of her shoulder. It is further alleged that Amrik Singh fired another shot hitting Manjit Kaur on her right thigh. When the complainant's son Gurpreet Singh tried to run to save his life, Amrik Singh fired at his son as well hitting him on his back and as a result of which he fell down. It is

alleged that complainant's brother Balwinder Singh died at the spot on account of fire-arm injuries while others sustained injuries.

3. Learned counsel for the petitioner has submitted that he is merely a driver employed by Amrik Singh and that in any case even if the allegations, as levelled in the FIR are taken to be correct, no overt act as far as causing of injuries is concerned is attributed to the petitioner and the only allegation against him is that he had brought the tractor at the spot while the co-accused Amrik Singh had come in a car and had later driven the tractor and fired at the deceased as well as the injured.
4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and had brought the tractor at the spot which was later driven by co-accused Amrik Singh who had fired, while driving the tractor, no case for grant of bail is made out. Learned State counsel has however, informed that challan already stands presented and that the petitioner as on date has been behind bars since the last about 4 months and that he is not involved in any other case.
5. I have considered the rival submissions addressed before this Court.
6. The FIR certainly does not show that the petitioner had committed any overt act as far as causing of injuries to the injured or to deceased is concerned and the only role attributed to him is that he had brought the tractor near the fields of the complainant which was later on driven by co-accused Amrik Singh who came there in a car. The complicity of the petitioner or as to whether he shared any common

intention with the co-accused is a matter to be decided on the basis of evidence which may be led by the prosecution and would certainly be debatable given the fact that he is not attributed any injury at all and cannot be said to have facilitated the commission of crime. In any case, challan already stands presented and the petitioner has been behind bars since the last about 4 months. In these circumstances, further detention of petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

26.10.2021

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No