

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

CRR-5-2021 (O&M)

Date of Decision: 18.03.2021

Abbu @ Sufyan @ Moh. Abu Sufyan ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ramandeep, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab,
assisted by ASI Gurbinder Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 12.11.2020 passed by learned Additional Sessions Judge, Patiala, whereby an appeal filed by the petitioner against order dated 21.09.2020 passed by learned Principal Magistrate, Juvenile Justice Board, Patiala declining his bail application, has been dismissed.
2. The FIR in question i.e. FIR No.85 dated 22.05.2020 registered at Police Station Anaj Mandi, District Patiala, under Sections 302/148/149/506 IPC and Section 25 of the Arms Act, was lodged at the instance of Davinder, wherein it is alleged that on 21.05.2020 when he along with his brother Shamsher Singh and nephew Vansh Kumar were going towards market, they came across S.K.Kharoud @ Kanwar Randeep Singh, Sajan, Abbu, Lali

who were armed with '*swords*', Chand Mohd., Phool Mohd. who were armed with '*gandasas*', Pawan armed with an '*iron rod*', Tara Dutt armed with a '*gandasa*', Parmod @ Modi armed with a '*rod*', Vicky Topi, Twinkle who were carrying '*swords*', Prince Chakki Wala armed with a '*gandasi*' accompanied by 5-6 unidentified persons. It is alleged that S.K. Kharoud raised a *lalkara* exhorting his companions to catch hold of Shamsheer and not to spare him. It is alleged that thereafter S.K. Kharoud, Abbu and Chand Mohd. took out their pistols and fired shots in the air. Sajan is alleged to have fired a shot towards complainant's brother with an intention to kill him hitting him below his left arm pit. It is alleged that thereafter the remaining accused who were carrying '*gandas*' and other weapons brandished their weapons in air while stating that the lion has been killed.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the instant case and in fact it is a case where a large number of accused have been roped in. It has been submitted that although it is a case where the deceased sustained a single injury with the help of fire-arm, but as many as 17 persons have been involved in the said case. The learned counsel has further submitted that the falsity of the FIR would be evident from the fact that while in the earlier part of the FIR, the petitioner is alleged to be carrying a '*sword*', but in the later part of the FIR, it is alleged that he had fired from a pistol. The learned counsel has further submitted that even as per the FIR, it is co-accused Sajan, who is alleged to have fired towards the complainant's brother and that the

petitioner is not specifically attributed any injury to the deceased much less the fatal injury.

4. Opposing the petition, the learned State counsel has submitted that since even as per the FIR, the petitioner was carrying a pistol and had also fired from the pistol in the air, his complicity in the entire occurrence is clearly evident and as such, he does not deserve the concession of bail.
5. I have heard the rival submissions addressed before this Court.
6. It is not in dispute that the petitioner is a juvenile being aged about 16 years. Further, the FIR itself is rather contradictory as regards the weapon which the petitioner was carrying inasmuch as while in one part of the FIR, he is alleged to be carrying a '*sword*', but in the later part, he is stated to have fired from a pistol. The fatal shot is attributed to co-accused Sajan. The petitioner as on date has been behind bars since the last about 7 months. In these circumstances, the petitioner, who is a juvenile, deserves the concession of bail. The instant revision petition, as such, is accepted and the order dated 12.11.2020 passed by learned Additional Sessions Judge, Patiala and order dated 21.09.2020 passed by Learned Principal Magistrate, Juvenile Justice Board, Patiala are hereby set aside and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
7. The parent/guardian of the petitioner shall, however, ensure that the movement and conduct of the petitioner is duly monitored so

that he does not come in association with any criminal and maintains a good conduct.

18.03.2021
Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No