

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

**CRM-M-19578-2021**

**Date of decision-01.12.2021**

**Baljit Singh**

**....Petitioner**

**Vs.**

**State of Punjab**

**...Respondent**

**CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

**Present:** Mr. L.S.Sekhon, Advocate for the petitioner.

Mr. Ramandeep Singh Sandhu, Sr.DAG, Punjab.

Mr. Atamjit Singh Thind, Advocate  
for accused-Gobind Singh.

Mr. Jashandeep Singh Sandhu, Advocate  
for accused-Rashid @ Sonu.

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**MANOJ BAJAJ, J.**

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.334 dated 28.08.2019 registered under Sections 21, 22, 25 and 29 Narcotic Drugs and Psychotropic Substances Act, 1985, Section 25 Arms Act, 1959 and Section 473 Indian Penal Code, 1860 at Police Station City Barnala, District Barnala. The petitioner is in custody since his arrest on 28.08.2019.

The contents of the above FIR read as under:-

*“Copy of ruqa, “Officer Incharge, PS City Barnala. Sir today I INSP. along with SI Randhir Singh 324, HC Harish Kumar 883, HC Sukhbir Singh 568, CT.Lovepreet Singh 900, Ct.Gurjit Singh 143 in govt.vehicle bearing registration no.PB-12-G-9068 being driven by HC Naib Singh 576 was present at main road Barnala to Bathinda near spring villa*

*palace in the revenue limits of city Barnala in relation to checking of suspicious person and patrolling. Then time around 12.35 pm a secret source gave tip off to I Insp. that Baljit Singh son of Billu Singh resident of Kheri Gillan District Sangrur whose particulars are like this Age: aprx. 26/27 years, complexion: Dusky, Height: 5'8", beard and hair trimmed wearing pant shirt and Gurpreet Singh son of Bant Singh resident of Kallar Bhaini District Patiala whose particulars are like this Age: aprx.20 years, complexion: dark, Height: 5'5", beard and hair trimmed wearing pant shirt. They along with their other accomplice are habitual of bringing intoxicant tablets and intoxicant bottles from outer states and selling the same in the Districts of Punjab State. Today also they are in their car make Micra bearing registration no. PB-59-B-1253 are going to sell the intoxicant tablets and bottles in the City Barnala after bringing them from outside. If their search can be conducted on the Sangam Road Handiya-Barnala and news bye-pass which connects Barnala Bhadaur and Bajakhana near District Jail Barnala then these two persons can be apprehended along with heavy quantity of intoxicant tablets and bottles. The information is true and reliable. So, the act of Baljit Singh and Gurpreet Singh by keeping in their possession intoxicant tablets and bottles for sale fulfills the ingredients of commission of offence under sections 21/22/25/61/85 of NDPS Act. So, information has been given to SHO PS City Barnala via wireless set and on the wireless set ASI Gurbachan Singh of CIA Barnala was made familiar and requested to reach at the the spot along with police party for conducting further proceedings. So sending the ruqa to police station City Barnala by hand CT. Lovepreet Singh 900 for registration of case under said offence against said Baljit Singh and Gurpreet Singh and their accomplice. Kindly inform ASI Gurbachan Singh about file number after registering the case. Sd/- Baljit Singh, Insp., CIA, Barnala. Dated 28.08.2019. Today at main road Barnala-Bathinda near Spring Villa Palace in the revenue limits of city Barnala. Time 1:10 PM."*

Thereafter, acting upon the above information, vehicle bearing No.PB-59-B-1253 was intercepted and the occupants of the vehicle, namely, Baljit Singh, Gupreet Singh and Gobind Singh were arrested on the spot and recovery of 50,000 intoxicant tablets was made.

During the pendency of the petition, on 26.11.2021, learned

counsel for accused-Baljit Singh had produced the common order dated 10.11.2021 passed by this Court in CRM-M-43197-2020 and CRM-M-9740-2021, whereby, co-accused, namely, Rashid @ Sonu and Gobind Singh were released on regular bail. The order dated 10.11.2021 is taken on record.

According to Mr. Sekhon, learned counsel, the case of the petitioner-Baljit Singh is identical to his co-accused Gobind Singh, therefore, on parity, he claimed the concession of regular bail for Baljit Singh.

On 26.11.2021, it was noticed by this Court that the learned counsel, who represented the accused-Gobind Singh had misled this Court by portraying that the said accused-Gobind Singh was not arrested on the spot and was indicted on the basis of disclosure statement of co-accused-Baljit Singh and Gurpreet Singh, whereas in fact the said accused-Gobind Singh was also travelling in the same vehicle with other co-accused and was arrested on the spot. Consequently, this Court on 26.11.2021 *suo moto* issued notice under Section 439(2) Cr.P.C to accused-Gobind Singh and passed the following order:-

*“Learned counsel for petitioner-Baljit Singh has argued that the prosecution has set up a common case against the petitioner and his coaccused, namely, Gobind Singh and since the co-accused has been released on regular bail vide order dated 10.11.2021 passed by this court, therefore, he be also released on bail. He has produced the copy of the order dated 10.11.2021.*

*A perusal of the order reveals that the counsel appearing on behalf of accused Gobind Singh had argued that the contraband was recovered from co-accused Baljit Singh*

*and Gurpreet Singh, who were arrested on the spot and subsequently on their disclosure, Gobind Singh was implicated and arrested on 28.08.2019.*

*During the course of hearing, learned counsel for the parties do not dispute this fact that actually Gobind Singh was arrested at the time of recovery of contraband as he was also travelling with co-accused Baljit Singh and Gurpreet Singh and it was on disclosure statement of Gobind Singh, another accused Rashid @ Sonu was implicated as an accused.*

*Learned State counsel states that as the FIR contains only the names of Baljit Singh and Gurpreet Singh, therefore, the fact that Gobind Singh was also arrested on the spot escaped attention of the State counsel, whereas, in fact, accused Rashid @ Sonu was implicated as an accused under Section 29 N.D.P.S.Act.*

*After hearing the learned counsel for the parties, it is apparent that while hearing the case relating to Gobind Singh for grant of regular bail, correct facts were not brought to the notice of this court, therefore, the order dated 10.11.2021 releasing Gobind Singh on regular bail deserves reconsideration/recalling.*

*Let a show cause notice returned by 01.12.2021 be issued to accused Gobind Singh as to why his bail be not cancelled. State counsel is also directed to take effective steps to intimate accused Gobind Singh about the next date of hearing.*

*Let the intimation be sent to Mr.J.S.Sandhu, Advocate as well as Mr.Atamjit Singh Thind, Advocate, who had appeared on behalf of the accused on 10.11.2021.*

*Registry is directed to tag the files of CRM-M-43197-2020 and CRM-M-9740-2021 along with the present case.*

*A copy of this order be furnished to the learned State counsel under the signature of Bench Secretary.”*

Today, pursuant to the above order, Mr. Atamjit Singh Thind, Advocate appears on behalf of accused-Gobind Singh, who conceded that the argument raised on behalf of accused-Gobind Singh on 10.11.2021 in CRM-M-9740-2021, does not convey the true picture of the prosecution case qua him, however, he states that despite the said order of bail, the said

accused has not been released from prison as he is confined in some other case as well.

This fact is not disputed by learned State counsel, assisted by ASI Hardeep Singh, who states that accused Gobind Singh is also involved in case FIR No.123 dated 24.07.2019 registered under Sections 22, 25, 29, 61 and 85 Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Barnala and is confined in custody.

Mr. Thind, learned counsel states that accused-Gobind Singh does not wish to file reply in response to the order dated 26.11.2021 and further submits that as the name of the petitioner is not contained in the FIR, therefore, he was under mistaken impression that accused Gobind Singh was arraigned as an accused later on, like various other accused, namely, Bunt, Balvir Singh @ Vicky, Dharma Singh and Leelo @ Leelo Kaur @ Neelo Kaur, who are on bail. The said orders are already on record in the present case as Annexures P-2 to P-5.

At this stage, Mr. Jashandeep Singh Sandhu, who represented accused-Rashid @ Sonu has submitted that the argument noticed by this Court on 10.11.2021 is correct as far as accused-Rashid @ Sonu is concerned, who was implicated after six months of the occurrence upon the disclosure of the co-accused.

This fact is also not disputed by learned State counsel.

After hearing learned counsel for the parties, this Court is of the opinion that the order dated 10.11.2021, granting bail to accused-

Gobind Singh is based upon misrepresentation and therefore, the same deserves to be cancelled.

Resultantly, this Court in exercise of its jurisdiction under Section 439(2) Cr.P.C orders cancellation of bail granted to accused-Gobind Singh, however, the said order would remain intact in respect of co-accused-Rashid @ Sonu.

At this stage, Mr. L.S.Sekhon, learned counsel for the petitioner does not press this petition for regular bail on behalf of petitioner-Baljit Singh and prays for withdrawal.

The prayer is accepted.

The petition qua Baljit Singh is ordered to be dismissed as withdrawn.

Let a copy of the order be placed on record in CRM-M-43197-2020 and CRM-M-9740-2021.

**(MANOJ BAJAJ)**  
**JUDGE**

**01.12.2021**

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |