

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

214

**CRM-M-37273-2020
Date of decision: 20.07.2022**

AMRITPAL SINGH @ SAJAN

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No. 119 dated 26.08.2019 registered under Sections 21 and 22 of the Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Ranjit Avenue, District Amritsar.

2. The present case has been registered on the statement of Sub Inspector Waris Masih and the same reads thus:-

“Statement of SI Waris Masih 1104 Amritsar Police Ranjit Avenue Amritsar City, stated that today I along with ASI Narinder Singh, HC Tajinder Singh 3743, HC Gurcharanjit Singh 3475, HC Baljit Singh 2145 along with laptop and printer were holding a special Naka in the area of housing board colony opposite Sanjay Gandhi Ranjit Avenue, Amritsar regarding search of private

vehicles from the side of vow gym main road one white colored Bolero Vehicle No. PB02-BS-7501 came there and I signaled him to stop but instead of stopping the bolero car he tried to run away by turning back the vehicle and the car suddenly stopped and two young hair cut boys came out and tried to ran away and the young person who was sitting along with the driver seat he was disabled from his right leg and I along with companion employees tried to apprehend these young persons and the young persons who was disabled from his right leg took out pistol from his right pocket and fired two shots on the (continued on the next page) police party with intension to kill and I alongwith companion employees saved our lives by falling on the ground and the person who was driving the car managed to ran away from the spot by taking the benefit of darkness. I with the help of companion employees apprehended the young person who fired upon the police party and is name and address was asked and he told him as Amripal Singh @ Sajan son Shamsher Singh resident of Mohallo Skekhupura near Patwar Khana Jandiala Guru Amritsar. Before conducting the search of suspect Amritpal Singh @ Sajan, the public witness was tried to associate in the police but due to city area nobody joined the police party and I recovered the pistol from his right hand and the same was unloaded and from its magazine 4 live bullets were recovered and on the back side of bullet 7.65 was written and on the recovered pistol made in USA and 7.65 MM was written in English. That the separate recovery memo of the recovered pistol was prepared and the pistol alongwith magazine and four live bullet were separately taken into police possession by preparing the recovery memo and the same were sealed with seal WM. That from the place of occurrence two empty bullets were recovered and their separate recovery memo was prepared and I took the same into police

possession after affixing my seal WM on it. The sample was separately prepared and thereafter, the search of while bolero car No. PB02-BS-7501 standing on the spot was conducted and from its dashboard one polythene envelope was recovered and something was wrapped in it and I in the presence of companion employees opened and checked this polythene envelope and intoxicant tablets were recovered from it and on counting the recovered intoxicant tablets they were found as 705. The recovered intoxicant tablets were put in one plastic box and parcel was prepared and it was sealed with my seal WM and sample was separately prepared. The total recovered 705 intoxicant tablets of parcel with WM seal alongwith sample seal and bolero white colored car No. PB02-BS-7501 were separately taken into police possession and the seal after use was handed over to ASI Narinder Singh No. 740/Amritsar. The above said accused Amritpal Singh @ Sajan told that the young person who was driving his bolero car and who ran away his name is Baljit Singh @ Katta resident of Shekhupura, Jandiala. The accused Amritpal Singh @ Sajan son of Shamsher Singh resident of Mohalla near Patwarkhana Jandiala Guru Amritsar had committed the offence under Sections 307/353/186/34 IPC and 25/54/59 Arms Act by firing on the police party with intention to kill and by obstructing in performing the duty. As such ruqa is sent through HC Gurcharan Singh 3475 to the police station for registration of case under Sections 307/353/186/34 IPC and 25/54/59 Arms Act. That 705 intoxicant tablets have been recovered from accused Amritpal Singh @ Sajan son of Shamsher Singh resident of Mohalla Shekhupura near Patwarkhana Jandiala Guru Amritsar and keeping in view the guidelines issued by the Hon'ble Supreme Court in its decision the other investigating officer was requested to carry the further investigation. That you have come on the

spot to carry on the future proceedings regarding recovery of 705 Intoxicant Tablets from accused Amritpal Singh @ Sajjan and statement has been recorded to you by explaining about all the circumstances and necessary action will be taken. Sd/- Waris Masih SI PS Ranjit Avenue Amritsar City dated 26/08/2019. Sd/- Iqbal Singh SI PS Ranjit Avenue Amritsar City dated 26/8/2019.”

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is alleged to be sitting in the car that was being driven by the co-accused. It is alleged that the person driving the car tried to escape by running through the Nakabandi and even a pistol shot was fired. The pistol along with four live cartridge was recovered from the petitioner and from the dash board of the car 705 intoxicant tablets were recovered.

3. Learned counsel for the petitioner further contends that the petitioner is in custody since 30.08.2019 and has already undergone an actual sentence 02 years 10 months and 24 days and that even though 15 witnesses have been cited by the prosecution, however, no witness has been examined so far. He contends that the petitioner was roped in an another case under the NDPS Act on 05.02.2020 while the petitioner was in jail and as such there was no occasion for any recovery to have been effected from the petitioner.

4. Learned counsel appearing on behalf of the respondent-State however, contends that the petitioner is the owner of the Car in question and that the weapon from which the shot had been fired was recovered from the possession of the petitioner. She further contends that even the contraband was recovered from the dash board of the said

vehicle. Since the petitioner is the owner of the said vehicle, the presumption as regards the contraband being in his conscious possession operates against the petitioner. She however does not controvert the fact that the petitioner has already undergone an actual custody of 02 years 10 months and 24 days and that no prosecution witness has been examined so far.

5. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their able assistance.

6. Without examining the merits of the instant case and taking into consideration, the period of custody already undergone and a delay in recording of the prosecution evidence, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

7. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

9. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 20, 2022
vishal sharma

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