

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

CRM-M No.12290 of 2016

Date of Decision:-12.05.2016

Baljinder Singh @ Rambo.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ashish Aggarwal, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab
assisted by ASI Surinder Pal Singh.

JASWANT SINGH, J (ORAL)

Prayer is under Section 439 Cr.PC for grant of regular bail to the petitioner-Baljinder Singh @ Rambo in case FIR No.207 dated 14.08.2014 for offence punishable under Section 22 of the NDPS Act registered with Police Station Patti, District Tarn Taran.

It is contended that the recovery has been effected by ASI Puran Singh, who as per the reply (Annexure P-5) filed by the DSP in another case, was drawing salary in the rank of Head Constable and was thus officiating ASI and, therefore, not competent to exercise the powers and perform the duties specified in Sections 42 and 67 of the NDPS Act, 1985. In support, learned Counsel for the Petitioner *cites* judgment of

Division Bench of this Court reported as **Bikkar Singh Vs. State of Punjab, 2006(3) RCR (Criminal) 16** .

Upon notice no reply has been filed by the State, however, learned State Counsel assisted by ASI Surinder Pal Singh does not dispute that the aforesaid ASI Puran Singh at the time of occurrence was exercising the powers of Local Rank ASI in the pay scale of the posts of Head Constable. It is also conceded that a Co-ordinate Bench of this Court vide order dated 4.5.2016 in another FIR No.52 dated 30.05.2014 under Sections 22, 61 & 85 of the NDPS Act registered at Police Station Harike, District Tarn Taran has categorically held that the said ASI Puran Singh lacked the authority and jurisdiction to exercise the powers under Section 42 and 67 of the NDPS Act and thereby proceeded to grant regular bail to the accused therein involving similar offences.

That apart, it is conceded that the challan stands presented and charges framed and the evidence 08 cited prosecution witnesses is yet to commence.

In view of the aforesaid, without commenting on the merits of the case, following the ratio of law and findings qua ASI Puran Singh, present petition is allowed and the petitioner Baljinder Singh @ Rambo is ordered to be released on bail to the satisfaction of learned CJM/Duty Magistrate, Tarn Taran.

Petition stands disposed of.

(JASWANT SINGH)
JUDGE

May 12, 2016
Vinay