

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.12658 of 2017

Date of decision : 09.05.2017

Gurjeet Singh alias Jonty

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. AMOL RATTAN SINGH

Present: Mr. Ashish Aggarwal, Advocate, for the petitioner.

Mr. Rajesh Mehta, Additional Advocate General, Punjab.

AMOL RATTAN SINGH J. (ORAL)

This petition has been filed under Section 439 Cr.P.C., for grant of 'regular bail' to the petitioner in case FIR No.11 dated 17.01.2015, registered at Police Station Sarhali, District Tarn Taran, for the alleged commission of an offence punishable under Section 22 of the NDPS Act, 1985.

Pursuant to the order dated 26.04.2017, Mr. Mehta, learned Additional Advocate General, Punjab, on instructions from the official who has come present in Court to assist him, submits that though ASI Davinder Kumar was actually drawing the salary of a Head Constable but he was given the rank and charge of an Assistant Sub-Inspector, and therefore, he would be deemed to be an officer empowered under Sections 42 and 67 of the NDPS Act, 1985 to take action as is required under the Act. Though, this Court may be otherwise inclined to agree with the learned State counsel on that issue, however, learned counsel for the petitioner having referred to a judgment of a Division Bench of this Court in **Bikkar Singh Vs. State of**

and further it not being denied by the learned State counsel that the sampling of the contraband stated to have been seized from the petitioner not having been done by the Magistrate in terms of Section 52A of the aforesaid Act, as interpreted by the judgment of the Supreme Court in the **Union of India Vs. Mohanlal and another**, 2016(1) RCR (CrL.) 858, I deem it appropriate to admit the petitioner to bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the trial Court.

However, it is made clear that nothing observed herein-above will be taken to be a final comment on the merits of the case, which would be gone into by the trial court after appraisal of the evidence led before it.

09.05.2017
adhikari/rajneesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether Reportable : *Yes/No*