

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

CRM-M No.23686 of 2017
Date of decision: 30th August, 2017

Hardidar Singh @ Harji

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Mr. Sandeep Kumar, Dy. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J.

Allegations against the petitioner Hardidar Singh alias Harji in this regular bail application under Section 439 Cr.P.C. in a case bearing FIR No.82 dated 22.06.2015 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'the Act') pertaining to Police Station Harike, District Tarn Taran, are that a police party headed by ASI Charan Singh on 22.06.2015 accosted the accused on the basis of secret information which led to recovery of 250 grams of intoxicating powder from the right pocket of trousers of the accused.

Learned counsel for the petitioner Mr. Ashish Aggarwal, Advocate has placed reliance on a Division Bench view of this Court in '**Bikkar Singh v. State of Punjab**' 2006(3) RCR (Criminal) 16 to

hammer home his arguments on sole ground that ASI Charan Singh was not bestowed with substantial rank of ASI and thus, did not have the powers under Section 42 of the Act.

The same is sought to be opposed by learned State counsel who has sought to place reliance on Notification No.S.O.33/C.A.61/85/Ss.42 and 67/87 to hammer home the point that there is no such bar that the Investigating Officer should hold substantial rank of ASI.

Going through the submissions, though in the Division Bench in the case of **Bikkar Singh (ibid)** such an issue was resolved by their Lordships but the same was in an appeal. At such a juncture, while deciding bail application when the trial is still to be held, it is inappropriate to discuss and comment upon the merits when there is nothing substantial to this effect before this Court. The cited ratio does not come to the aid of the petitioner.

Keeping in view that as per the own stand of the State by way of affidavit filed in the Court which has placed reliance on (Annexure R1) specifically states the officer of and above the rank of ASI is empowered to exercise the powers and perform the duties under Sections 42 and 67 of the Act. Thus, this argument put forth by the learned counsel for the petitioner is untenable.

Keeping in view that commercial quantity of contraband has been recovered from the conscious possession of the petitioner, this Court does not find any merit in the present petition which stands dismissed.

(FATEH DEEP SINGH)
JUDGE

August 30, 2017
rps

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