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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.1193 of 2018
Date of Decision: 19.02.2018

Manan Shafi Nazaar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Sandeep Verma, Advocate,
for the petitioner.

Ms. Rajni Gupta, Senior D.A.G., Punjab.

SUDIP AHLUWALIA, J. (ORAL)

In this petition, the petitioner seeks his release on regular bail in F.I.R. No.287, dated 22.12.2016, under Sections 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Rajpura, District Patiala.

2. It is contended, *inter alia*, on behalf of the petitioner that even assuming that recovery made from his client was by chance, still once it was understood that the contraband happens to be Narcotic Drugs or Psychotropic Substances, the matter should thereafter had been handed over to the specified Authority. But that was not done and the Investigating Officer, whose substantive rank was Head Constable continued with the

investigation.

3. In “Bikkar Singh Vs. State of Punjab”, 2006(3) R.C.R. (Criminal)16, in similar circumstances, a Division Bench of this Court had observed:-

“Secondly, it is evident from the cross-examination of PW-1 SI Gurmail Singh, who is the Investigating Officer in this case, that he was ad hoc A.S.I. And had not passed the departmental course for promotion as A.S.I. Further, it is also admitted by him that he was receiving pay of Constable Grade II at the time of occurrence of this case. Not only that, DW-1 Constable Preet Inder Singh also proved from the summoned record that the substantive rank of SI Gurmail Singh was Constable Grade II and that his SI rank is only O.R.P. (own rank promotion). He also proved that SI Gurmail Singh had never passed any course for promotion as Head Constable or that of Assistant Sub Inspector. In his further cross-examination, he admitted it to be correct that before promotion to the rank of SI, one has to pass the course of Head Constable and also that of ASI. In this view of the matter, it can be safely inferred that he was not competent to exercise the powers and perform the duties specified in Sections 42 and 67 of the Act within the area of his jurisdiction.”

4. In this view of the matter and considering that the petitioner has remained in detention for a long period now and is not reported to be involved in any other case under the Narcotic Drugs and Psychotropic Substances Act, 1985, the present petition is allowed and the petitioner, namely Manan Shafi Nazaar son of Mohd. Shafi Nazaar, is directed to be

released on regular bail subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

19.02.2018

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No