IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No.M-971 of 2018 (O&M)
Date of Decision: July 26, 2018

Manjit Kumar @ Mangtu

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Kumar Passi, Advocate
for the petitioner (s).

Mr. Amitoj Singh Dhaliwal, DAG, Punjab.

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SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 65 dated 15.04.2017 registered for the offences punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Moga City.

Heard.

Short affidavit of Kesar Singh, Deputy Superintendent of Police (City) Moga filed, wherein about the rank of ASI Baljinder Singh, it has been stated as follows:-

> "3. That in compliance of said order, it is submitted that ASI (Local Rank) Baljinder Singh No.116/Moga had joined the police department on 01.04.1985 and he has been promoted as Head Constable on 01.04.1998 and on 18.12.2017 he has been dismissed from the department. Copy of order is attached herewith

Sachin Mehta
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High Court, Chandigarh

> as Annexure R-1/T. Said ASI (Local Rank) Baljinder Singh was not permanently promoted as ASI by the department and he was having local Rank."

As per case of prosecution, ASI Baljinder Singh had apprehended the petitioner, recovered contraband from his possession and conducted the investigation. As per affidavit, he was holding the rank of Head Constable at that time and was not permanently got promoted as Assistant Sub Inspector, as such, was not competent to conduct the investigation in this case.

Keeping in view the above fact but without expressing any opinion on merits of the case, the present petition is allowed. Petitioner Manjit Kumar @ Mangtu is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.

b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.

c. He shall not leave the country without prior permission of the Court.

(SURINDER GUPTA)
JUDGE

July 26, 2018
Sachin M.

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

Whether Reportable: ***Yes/No***

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