

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

CRM-M No. 22138 of 2018

Date of decision : 16.01.2019

Sandeep Kumar @ Sonu

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Mr. Amit Mehta, Senior DAG, Punjab.

* * *

DAYA CHAUDHARY, J. (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No. 29 dated 29.05.2017 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short - 'NDPS Act'), registered at Police Station – Sadar, Rajpura, Distt. Patiala, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved. As per the case of the prosecution, the alleged recovery is 45 injections of 2 ml each make buprenorphine containing salt buprenorphine hydrochloride from the petitioner. Learned counsel also submits that the Investigating Officer of the case ASI Baljinder Singh, who conducted search and the recovery allegedly effected from the petitioner, was not competent in view of

notification dated 03.09.1987. The petitioner is in custody since 29.05.2017 and no other case under NDPS Act is there against him. No purpose would be served by keeping him in custody.

Learned State counsel has not disputed the period of custody as well as this fact that no other case of NDPS Act is there against the petitioner.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have perused the contents of the FIR and other documents on file.

In pursuance of order dated 28.08.2018, learned State counsel has filed status report in the Court today and the same is taken on record. This fact has also been admitted in the status report that HC Baljinder Singh was not promoted on regular basis. He was given charge and rank of Assistant Sub Inspector vide order No.46042-49/A-1 dated 23.12.2016 w.e.f. 23.12.2016. Meaning thereby, as per said notification, he was not competent to investigate the case.

By considering the submissions made by learned counsel for the petitioner and keeping in view the period of custody since 29.05.2017 and also the fact that Investigating Officer of the case was not competent to conduct the investigation of the case in view of said notification; all the prosecution witnesses are official and there is no possibility that the petitioner may influence them or tamper with the evidence; trial may take some time to conclude, no purpose would be served by keeping the petitioner in custody; this petition is allowed and the petitioner is directed to

be released on regular bail subject to furnishing adequate bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

16.01.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No