

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

227

**C.R.M-M No.23907 of 2019
Date of Decision : 29.05.2019**

Sunil Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Naveen Shaarma, Advocate
for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

AJAY TEWARI, 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.79 dated 10.7.2015 registered under Sections 21/22 of the N.D.P.S Act at Police Station Satnampura, District Kapurthala.

In the present case, the alleged recovery was of 100 gms. of psychotropic powder.

Counsel for the petitioner has argued that the investigating officer/complainant of the present case was not at all competent to lodge the present FIR as he was not having permanent rank of ASI but was having a rank of local ASI and he was not an empowered Officer as envisaged under Section 42 of the NDPS Act. As per him, even if this chance recovery had taken place, it was incumbent upon that investigating officer to have

informed the empowered Officer, and further proceedings under the NDPS Act could have only been taken by such empowered Officer and this unauthorized Officer could not have completed all the necessary formalities. He has further argued that the petitioner has been in custody since 07.05.2019.

Learned DAG Punjab, on instructions from Head Constable Manjit Singh, has accepted these factual assertions.

Keeping in view the entire conspectus of facts and the period of incarceration already suffered by the petitioner, without going into the merits of the case, I deem it appropriate to grant regular bail to the petitioner. Ordered accordingly. Bail to the satisfaction of the trial Court/Duty Magistrate.

Petition stands allowed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

May 29, 2019
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No