

Sr. No.202

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

CRM-M-77320-2018(O&M)
Date of decision:31.05.2019

Issamdeen

..... Petitioner

versus

State of Punjab

..... Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for seeking bail pending trial in FIR No.45, dated 09.04.2017 for the offences punishable under Section 18 of NDPS Act, registered at Police Station Sadar Phagwara, District Kapurthala.

Learned counsel for the petitioner contends that the search and seizure in the present case was conducted by one Inderjit Singh, who was holding substantive rank of Head Constable only, though he was awarded local rank of ASI. Therefore, he was not competent to search or seize the contraband, as per the notification of the Government of Punjab. It is further submitted that on the same ground, the co-accused of the petitioner, have already been granted the concession of bail pending trial by a co-ordinate Bench of this Court. In this regard, reliance is placed on an Order dated 30.11.2018 passed by the co-ordinate Bench in CRM-M-21607 of 2018, qua the co-accused. Hence it is prayed that the petitioner be released on bail pending trial.

On the other hand, learned State counsel submits that there is heavy recovery of 3 kg opium from the petitioner. Therefore, he does not deserve any concession of bail. However, it is not denied that in this very case and on the legal point of competence of the searching officer, the co-accused of the petitioner has been released on bail pending trial, by a Coordinate Bench.

In view of the above, but without commenting upon the merits of the case, the petition is allowed. Petitioner is granted the concession of bail pending trial. He be released on bail pending trial subject to furnishing bail bonds/surety to the satisfaction of the concerned Trial Court/Duty Magistrate.

31st May, 2019
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*