

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26840-2018

Date of decision: 07.01.2019

Jaswant Singh @ Sant

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ranjeet K. Jaswal, Advocate for
Mr. Onkar Rai, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.139 dated 14.11.2017 under Sections 22/61/85 of NDPS Act, registered at Police Station Sadar Nawanshahar, District SBS Nagar.

Learned counsel for the petitioner submits that as per allegations in the FIR, the petitioner was apprehended by ASI Palwinder Singh/Investigating Officer and after he gave a notice under Section 50 of NDPS Act, the petitioner allegedly reposed confidence on him and he himself conducted the search. It is further submitted that at no point of time, the second Investigating Officer was called and therefore, in view of judgment of the Hon'ble Supreme Court in **Mohan Lal Vs. State of Punjab, 2018 (4) RCR (Crl.) 101**, it will be a debatable issue whether non-joining of second Investigating Officer will have

adverse bearing on the facts of the case. Learned counsel further submits that the petitioner is in custody since 14.11.2017; he is not involved in any case under the NDPS Act and the case is still fixed for recording the prosecution evidence.

Learned State counsel, on the basis of affidavit of Investigating Officer, has submitted that the petitioner was involved in three FIRs pertaining to the years 2002-2004, however, none of these FIRs were under the NDPS Act. Learned State counsel, on instructions from ASI Hira Lal, could not dispute the factual position, as submitted by learned counsel for the petitioner and submits that only two prosecution witnesses remain to be examined.

Without commenting anything further on merits of the case, considering the fact that the petitioner is in custody since 14.11.2017; the case is still fixed for recording the prosecution evidence and in view of the judgment in **Mohan Lal's** case (supra), this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[**ARVIND SINGH SANGWAN**]
JUDGE

07.01.2019

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No