

CRM-M-20677-2020

Date of decision: 28.07.2020

Lakshay

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Ketan Antil, Advocate
for the petitioner.**FATEH DEEP SINGH, J.(ORAL)**

Due to the outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Notice of motion to official respondent-State.

Mr. B.S. Virk, DAG, Haryana puts in appearance and accepts notice on behalf of the official respondent-State. Copy of paper book be supplied during the course of the day.

The petitioner-Lakshay has sought this first anticipatory bail under Section 438 Cr.P.C. in a case bearing FIR No.154 dated 03.04.2020 under Sections 188, 420 of the Indian Penal Code and Sections 61-1-14 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (Section 420 IPC added lateron) registered at Police Station Kundli, Sonapat, Haryana.

The brief allegations as detailed on behalf of the State are

that on the basis of the secret information, the police conducted a raid and on search of a godown in the area within Barota and got recovered illicit liquor numbering 202 quarter in boxes carrying the logo 'fitter' and from the spot co-accused/non-applicant, Punit and Kuldeep were apprehended. The allegations against the petitioner are that he happens to be the brother of Punit.

Learned counsel for the petitioner submits that co-accused from whom and in whose presence, recovery was effected, having been allowed regular bail by the Court of learned JMJC vide order dated 05.04.2020. The petitioner has been roped in purely because he happens to be the brother of Punit and neither he is the occupant of the premises nor has been named in the FIR and it is only on the statement of the co-accused he has been involved.

The learned State counsel has strongly opposed the bail on the grounds that the accused are responsible for carrying on illicit trade in liquor which is adversely affecting the State revenue and, therefore, custodial interrogation of the petitioner is essential.

Admittedly the recovery has already been effected and that too in the presence of co-accused. To the specific query of this Court, the learned State counsel could not show in any manner any semblance of evidence which shows the involvement of the petitioner in the commission of offence as neither he is the occupant nor is named in the FIR. The only evidence is statement of co-accused, the veracity and legality of which would be adjudicated at the time of

trial.

This Court is of the opinion that it would be a travesty of justice to send the petitioner in custody in the present case and his joining the investigations would suffice the purpose. Accordingly, the petitioner is directed to appear before the investigating officer/Magistrate within a period of 15 days from the date of receipt of certified copy of this order and on his doing so, he shall be released on bail to the satisfaction of the arresting/investigating officer till submission of report under Section 173 Cr.P.C. (challan). The petitioner shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, he will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off accordingly.

28.07.2020
Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No