

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

CRM-M-23101-2020

Date of decision: 24.08.2020

Sandeep Kumar

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Rajesh Kapila, Advocate
for the petitioner.

Mr. Jagmohan Ghuman, DAG, Punjab
for the respondent-State

FATEH DEEP SINGH, J.(ORAL)

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

Notice of motion to the official respondent-State.

Mr. Jagmohan Ghuman, DAG, Punjab puts in appearance
and accepts notice on behalf of the official respondent-State. Copy of
the paper book be supplied.

The petitioner-Sandeep Kumar has sought this first
anticipatory bail application under Section 438 Cr.P.C. in a case
bearing FIR No.28 dated 18.04.2020 under Section 22 of the NDPS
Act, 1985 registered at Police Station Garhdiwal, District Hoshiarpur.

The allegations of the prosecution are that the police apprehended
three motorcycle borne persons and from their possession got

recovered intoxicant powder weighing 178 grams from Dalvir Singh, 115 grams from Jasvir Singh and 155 grams from Amninder Singh and it is on the basis of the statement of the persons that they have purchased the contraband from the present petitioner.

Learned counsel for the petitioner *inter alia* contends that the petitioner has not been named in the FIR and it is on the basis of statement of the co-accused he has been nominated, thus, sought to put to doubt and veracity and admissibility of such piece of evidence.

The learned State counsel has strongly opposed the grant of bail on the grounds of heinousness of the offences. It is further contended by the State counsel that earlier, the petitioner has been convicted under the NDPS Act and, therefore, disentitles him to any relief.

Going through the submissions, admittedly, the accused/petitioner-Sandeep Kumar has since been allowed suspension of sentence in the previous case in which he has been convicted. The very legality, veracity and admissibility of such a piece of evidence by way of statement of co-accused is a matter to be decided at the time of trial.

Keeping in view the situation of COVID-19 pandemic, this Court deems it imperative to allow the present petition. 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.

24.08.2020
Neha

(FATEH DEEP SINGH)
JUDGE

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