

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CRM-M No.26563 of 2021

Date of decision:15.07.2021

Sandeep

... Petitioner

Vs.

State of Haryana

... Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Sunil Saharan, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

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**SUVIR SEHGAL J. (ORAL)**

The Court has been convened through video conferencing due to Covid-19 pandemic.

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.126, dated 08.03.2021 registered for offence under Sections 20 and 27-A of the NDPS Act, 1985, at Police Station Barwala, District Hisar.

As per the version of the prosecution, FIR, Annexure P-1, has been registered after 17.550 kgs. *ganja* was recovered from co-accused Deep, who was searched on the basis of secret information.

Counsel for the petitioner contends that the petitioner is not named in the FIR and has been roped in as an accused on the basis of the disclosure statement of co-accused, Deep, from whom recovery of non-commercial quantity has allegedly been effected. He submits that co-accused, Deep, has been released on bail by the trial Court vide order dated 04.05.2021. It is his argument that the statement of a co-accused recorded in police custody is inadmissible in evidence. He submits that on the same day, the petitioner was named as an accused in FIR No.127

dated 08.03.2021, after recovery of non-commercial quantity of *ganja* was effected from him. He contends that the investigation qua the petitioner is complete, challan has been presented and the petitioner, who is in custody since 09.03.2021 deserves to be enlarged on bail.

Per contra, learned State counsel upon instructions from ASI Ajay, has opposed the petition and submitted that though the petitioner was named in the disclosure statement of co-accused, but because of recovery effected from him, he has been named as an accused in the second FIR. As per his instructions, challan has been presented on 07.05.2021, but the charge is yet to be framed.

Having considered the arguments addressed by counsel for the parties, the Court is of a prima facie view that as the petitioner has been arraigned as an accused on the basis of statement of co-accused, he deserves to be granted the concession of bail during the pendency of trial.

Keeping in view the nature of allegations, gravity of offence, period of incarceration and the fact that the trial is not likely to conclude in the near future, the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

Petition is allowed.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

15.07.2021

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(SUVIR SEHGAL)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |