

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

2023 : PHHC : 064838

**CRM-M-21777-2023
Date of Decision: 05.05.2023**

**SANDEEP KUMAR
V/S
STATE OF HARYANA**

**... PETITIONER
... RESPONDENT**

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Narender Kaajla, Advocate for the petitioner.
Mr. Gurbir Singh Dhillon, AAG Haryana.

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VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 126 dated 09.03.2023 under Section 18(C) of Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Sadar Fatehabad.
2. Custody certificate has been taken on record.
3. As per the version of the prosecution, a secret information was received to the effect that Pawan Kumar, co-accused is carrying the opium and accordingly, a *naka* was raised. The petitioner along with the co-accused were apprehended. The petitioner was driving the motor-cycle and Pawan Kumar, co-accused was holding a black-coloured polythene bag which contained 510 gram opium.
4. Learned counsel for the petitioner contends that the secret information was only against the co-accused and even the recovery was effected from the polythene bag being carried by the co-accused. Moreover, the quantity of contraband recovered in the instant case falls in the category of less than commercial quantity and the petitioner is not involved in any other case.

5. Learned State counsel has opposed the bail application on the score that the petitioner along with the co-accused was found in joint conscious possession of the contraband.

6. Be that as it may, the quantity of contraband recovered in the instant case falls in the category of less than commercial quantity. As such, the stringent provisions of section 37 of the NDPS Act are not attracted. The contraband was being carried by the co-accused who was sitting on the pillion of the motor-cycle being driven by the petitioner. The petitioner is in custody for a period of 1 month and 25 days and not involved in any other case. The custodial interrogation of the petitioner is over and he has been remanded to judicial custody. The conclusion of investigation and trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

7. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

8. The petition is allowed.

05.05.2023

Janki

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No