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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 57107 of 2023
Date of decision:- 29.11.2023

SUKHPREET SINGH ALIA JANTA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Amit Arora, Advocate for the petitioner.

Mr. A.S. Sandhu, AAG, Punjab.

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SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in the following case:-

FIR No.	Dated	Sections	Police Station
122	15.08.2023	21(c) (29 added lateron vide DDR No. 39 dated 17.08.2023 of the NDPS Act.	Sirhali, District Tarn Taran

2. Status report dated 29.11.2023 in the form of an affidavit of Deputy Superintendent of Police, Sub-Division Patti, District Tarn Taran, has been filed by learned State counsel on behalf of respondent/State. The same is taken on record. Copy thereof, has been supplied to learned counsel for the petitioner.

3. Brief facts of the case are that Police party during patrolling

had intercepted the co-accused Gursewak Singh who was coming on foot and on seeing police party throw away one plastic bag and moved hurriedly. He was got apprehended and on search of the plastic bag 263 grams of heroin was stated to have been recovered and the present FIR was registered and on disclosure statement made by co-accused Gursewak Singh petitioner was nominated in the present FIR.

4. It is submitted by learned counsel for the petitioner that except for the alleged disclosure statement of co-accused Gursewak Singh @ Kala, apprehended by the police in the aforesaid FIR, there is nothing to connect the petitioner in this case. He submits that evidentiary value of alleged statement of co-accused is questionable and not even a single case has been registered against the petitioner.

5. Learned State counsel while referring to the reply on instructions from ASI Sewak Singh, submitted that there is no other case registered against the petitioner and he has been nominated only on the basis of disclosure statement of co-accused Gursewak Singh @ Kala aforesaid.

6. After considering the contentions of both the parties and perusing the record, it transpires that the case put forth by the petitioner is that the petitioner was not named in the FIR nor any recovery has been effected from him but he was nominated on the alleged disclosure statement made by Gursewak Singh @ Kala and there is nothing to connect the petitioner with the alleged recovery. The State has filed the reply and perusal thereof, shows that the petitioner has been nominated only on the basis of the disclosure statement made by the co-accused Gursewak Singh who was apprehended by the police in this case and recovery has been effected from

him. The reply submitted by the State does not mention about anything incriminating against the petitioner which could connect him with the alleged recovery apart from being nominated by the co-accused Gursewak Singh in his disclosure statement. The evidentiary value thereof is yet to be seen by the trial Court.

7. Resultantly, without commenting on the merits of the case, the present petition is, hereby, allowed and the petitioner is directed to join the investigation within seven days from today and in the event of arrest of the petitioner, the petitioner is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.

8. The petitioner is however directed to join the investigation as and when required in future also, on receipt of written notice from the Investigating Officer and undertaking not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

9. The petition stand allowed.

10. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SANJIV BERRY)
JUDGE

29.11.2023

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No