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

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Date of Decision : August 14, 2024

JAGJEET SINGH**-PETITIONER****V/S****STATE OF PUNJAB****-RESPONDENT****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail, in case FIR No.49 dated 04.04.2024, under Sections 21/29 of the N.D.P.S. Act, registered at P.S. Bhawanigarh, District Sangrur.

2. The learned counsel for the petitioner submits that the petitioner has no concern whatsoever with the alleged recovery of 50 grams of heroin, which indeed has been effected from conscious possession of co-accused Amritpal Singh @ Toofan and Rafi Kumar. The name of the petitioner surfaced for the first time ever only in the disclosure statement, as suffered by his co-accused Rafi Kumar, during the course of investigation, whereupon, he has been arrayed as an accused in the instant FIR. He contests the evidentiary vigor of the said disclosure statement, on the ground that, the same was suffered by co-accused while being in police

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custody.

3. The learned counsel for the petitioner further submits that, except the disclosure statement of co-accused (*supra*), the investigating agency is not seized of any cogent inculpatory evidence, thus connecting the petitioner with the alleged crime. Even in the reply furnished by the respondent-State on 09.05.2024, it has been categorically admitted that there was no cellular telephonic conversation between the petitioner and the main accused.

4. *Per contra*, the learned State counsel has vociferously opposed the grant of anticipatory bail to the petitioner, on the grounds that, (i) the petitioner is a habitual offender, inasmuch as, he is involved one more case registered under the N.D.P.S. Act, wherein, 15,000 intoxicant tablets were recovered; (ii) although CDR of mobiles phones belonging to accused Amritpal Singh @ Toofan, Rafi Kumar and the present petitioner do not indicate any cellular calls *inter se* them, however, communication did occur *inter se* them via Whatsapp, account whereof were subsequently deleted by them.

5. The learned State counsel has also filed a fresh reply, on affidavit of Gurdeep Singh, PPS, Deputy Superintendent of Police, Sub Division Bhawanigarh, District Sangrur, which is taken on record.

6. This Court has heard the rival submissions made by the learned counsels for the parties and is of the opinion that the petitioner does not deserve the extraordinary relief of anticipatory bail. The cause for forming this inference ensues from the hereinabove extracted details.

7. Record reveals that, earlier also, the petitioner was involved in

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commission of an alike offence under the N.D.P.S. Act, wherein, 15,000 intoxicant tablets were recovered and consequently, FIR No.28 dated 12.02.2020, under Sections 22, 29/61/85 of the N.D.P.S. Act, was registered at P.S. Anaj Mandi, District Patiala. However, instead of mending his conduct after getting the concession of bail/interim bail in FIR (supra), the petitioner again indulged in trade of narcotics, which constituted the bedrock for registration of the present FIR.

8. What emanates from a perusal of the reply, as filed today by the learned State counsel, is that, when no traces of cellular communication *inter se* the accused Amritpal Singh @ Toofan, Rafi Kumar and the present petitioner could be found from the CDR of their respective mobiles, therefore, to unearth the existence of Whatsapp communication *inter se* the accused (supra) and the petitioner, the investigating agency wrote a letter to Whatsapp LLC, 1 Meta Way, Menlo Park, CA 94025, United States of America, thereby requesting to provide information about actual Whatsapp User registered with Mobile Nos. 70098-73614, 83609-07425, 98729-69102, 95012-04504 and 8986-10002. However, the response as received to this letter, revealed that the mobile numbers (supra) do not exist as valid Whatsapp accounts.

9. In such circumstances, this Court is impelled to draw a *prima facie* inference that, in order to hide his culpability and involvement in the present crime, the petitioner acted cleverly and deleted his Whatsapp account, thereby creating a handicap for the investigating agency to retrieve his Whatsapp data.

10. Although the alleged recovery of heroin, as effected from the



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co-accused (supra), undisputedly falls in the category of “non commercial quantity”, however, the hereinabove extracted criminal antecedents of the petitioner, as also his hereinabove discussed conduct of deleting Whatsapp account with a *malafide* intent to scuttle the investigation, impel this Court to draw an inference that the petitioner is a habitual offender, who indulges in trade of narcotics time and again. Moreover, insofar as evidentiary worth of the disclosure statement of co-accused (supra) is concerned, the same can only be considered and ascertained at the appropriate stage of trial.

11. Therefore, this Court does not deem it a fit case to grant the extraordinary relief of anticipatory bail to the petitioner. Consequently, the asked for relief of anticipatory bail is declined to the petitioner and the petition is accordingly **dismissed**.

12. However, anything observed hereinabove shall neither be construed to have any bearing on the outcome of the trial, nor the trial Court concerned shall be influenced by any of the observations recorded herein.

August 14, 2024
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(KULDEEP TIWARI)
JUDGE

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