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

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Date of Decision : November 26, 2024

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

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

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

KULDEEP TIWARI, J. (ORAL)

1. The instant petition embodies a prayer for grant of anticipatory bail to the petitioner, in FIR No.205 dated 18.09.2021, under Section 21 of the N.D.P.S. Act, 1985, read with Section 411/414 of the IPC, 1860, registered at P.S. Gharinda, District Amritsar.

2. Succinctly stated, the present FIR derived its origin from a secret information that, the petitioner and his co-accused Angrej Singh @ Makku and Lakhbir Singh @ Captain indulge in cross-border smuggling of heroin.

3. Consequent upon registration of the present FIR, accused Angrej Singh @ Makku was arrested on 18.09.2021 and upon his interrogation, he made disclosure that, he along with his accomplices namely Jobanjit Singh @ Joban (petitioner) and Lakhvir Singh @ Captain

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smuggled 03 kgs of heroin from their Pakistani associate namely Yada. He also disclosed about the place where the contraband was concealed and accordingly led the investigating agency there and got recovered one red bag containing one plastic bottle and bicycle tube filled with heroin. Upon weighing, 900 grams of heroin was recovered from the plastic bottle and 02 kgs 360 grams of heroin was recovered from the bicycle tube.

4. Thereafter, on 19.09.2021, accused Angrej Singh @ Makku made another disclosure that, his associate Jobanjit Singh @ Joban (petitioner) used to communicate with a drug smuggler namely Gopi (who lived in Pakistan) and one consignment of heroin was also kept concealed by him in the fields near Gurudwara situated ahead of Gate No.112 of International Border Fencing. Accordingly, on 20.09.2021, one sock containing 05 small packets of heroin, total weighing 01 kg, was recovered from the paddy fields of one Gurdeep Singh.

5. The samples of the recovered contraband were sent for F.S.L. examination and a positive report came *qua* the contraband being Diacetylmorphine (Heroin).

6. During the course of investigation, offence under Section 23 of the N.D.P.S. Act was added in the present FIR, vide DDR No.14 dated 14.03.2022, and, offence under Sections 411 and 414 of the IPC was deleted, vide DDR No.09 dated 17.03.2022.

7. Fetching apprehension regarding his arrest on the basis of disclosure made by his co-accused, the petitioner filed the instant petition for grant of anticipatory bail. When the instant petition came up for hearing on 08.12.2023, a Co-ordinate Bench of this Court granted interim bail to the



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petitioner and directed him to join the investigation. A perusal of the order dated 08.12.2023, relevant portion whereof is extracted hereinafter, reveals that, one of the reasons behind grant of interim bail to the petitioner was that, the petitioner undertook to surrender and deposit all the electronic gadgets, mobile phones/SIM cards before the police belonging to him for the last 05 years and to fully cooperate in the investigation.

*“...The learned counsel for the petitioner submitted that even as per the affidavit filed by the State, the petitioner was not named in the FIR but it was only on the disclosure statement of co-accused wherein he has stated that the petitioner is in contact with Pakistani people for the purpose of procuring 'Heroin' but no active role has been attributed to the petitioner apart from the aforesaid statement so stated by the co-accused of the petitioner. It is further submitted that the petitioner is having clean antecedents and is a peace loving citizen and not involved in any other case and the police did not take any effort to apprehend the petitioner, though he was consistently staying in the village, but now the police suddenly raided the house of the petitioner, after lapse of a period of 2 years. He has further submitted that since the allegation against the petitioner is only pertaining to contacting some Pakistani people for the purpose of getting 'Heroin' and **the counsel for the petitioner on behalf of petitioner undertakes to surrender and deposit all the electronic gadgets, mobile phones/SIM cards before the police belonging to him for the last 5 years and he will fully cooperate with the investigation purpose, he may be considered for interim protection.**”*

8. Thereafter, on 29.05.2024, this Court directed the respondent-State to file an additional affidavit, disclosing therein the incriminatory evidence collected by the investigating agency to connect the petitioner with the present crime. In pursuance to the said directions, the additional affidavit dated 19.07.2024 was filed by Sukhjinder Pal Singh, P.P.S.,

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Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural). However, a study of the additional affidavit coaxed this Court to observe that, investigation conducted until then in the present FIR, was shoddy and unprofessional. Resultantly, vide order dated 29.07.2024, this Court directed the Commissioner of Police, Amritsar to cause his personal appearance before this Court.

9. When this petition came up for hearing on 14.08.2024, again an affidavit sworn by Charanjit Singh, IPS, Senior Superintendent of Police, District Amritsar (Rural), became furnished before this Court. A studied survey of this affidavit made shocking revelations that, the initial investigating officer SI Diljit Singh was/is himself an accused in case FIR No.46 dated 11.06.2023, under Section 21-C/61/85 of the N.D.P.S. Act, registered at P.S. Sarai Amanat Khan, District Tarn Taran, and, there were/are allegations that he was found in possession of 307 grams of heroin. Moreover, although he mentioned the name of accused in the supplementary challan, however, he did not record any DDR in this regard. Not only this, he even helped the accused by not obtaining the relevant record from the telecommunication department, and the consequence thereof was/is that, the said record/data could not be retrieved after lapse of approx. 02 years. The affidavit (supra) also revealed that, since the official/officer retired from job, therefore, appropriate departmental action has already been recommended against him. It also became disclosed in the affidavit (supra) that, mobile of the petitioner was seized and sent for F.S.L. examination, in order to retrieve any incriminatory evidence.

10. After receipt of the F.S.L. report, again an affidavit sworn by

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Charanjit Singh, IPS, Senior Superintendent of Police, District Amritsar (Rural) became furnished before this Court. This affidavit embodied submissions that, fact finding inquiry(ies) was got conducted and during inquiry(ies), the negligence of police personnel while performing their official duty surfaced, inasmuch as, they failed to preserve the CDRs appertaining to the mobile of the petitioner, as a result whereof, now after lapse of two years, the investigating agency is unable to retrieve the said record/data from the mobile service provider. Resultantly, departmental inquiry against police personnel, who remained associated in the shoddy and unprofessional investigation, has been recommended.

11. Thereafter, again an additional affidavit sworn by Lakhwinder Singh, P.P.S., Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural) became furnished before this Court. The author of this additional affidavit dated 13.11.2024 reported that, the mobile surrendered by the petitioner at the time of joining investigation contained the data only of 16.01.2024, which means that the petitioner has, just to mislead the investigation, presented a new mobile instead of the mobile used by him in the year 2021.

12. This Court has heard the rival submissions made by the learned counsels for the parties and also perused the record. For the reasons to be assigned hereinafter, this Court does not deem it a fit and deserving case to grant the extraordinary relief of anticipatory bail to the petitioner.

13. The petitioner has been named as an accused at the first instance, inasmuch as, the secret information regarding trade of cross-border heroin smuggling was received specifically against the petitioner and his co-



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accused, and, in pursuance to the secret information, total 04 kgs 260 grams of heroin was recovered at the instance of petitioner’s co-accused.

14. The police officials concerned not only gave undue benefit to the petitioner by not arresting him for the last approx. 02 years, rather also allowed the material evidence to vanish, which impelled this Court to direct the senior police functionary(ies) to cause appearance before this Court and it was only thereafter that, the investigating agency woke up from slumber.

15. The conduct of the petitioner, as reported in the additional affidavit 13.11.2024, also coaxes this Court to decline the relief of anticipatory bail to the petitioner, inasmuch as, initially the petitioner obtained the relief of interim bail by rendering an undertaking before this Court to surrender and deposit all the electronic gadgets, mobile phones/SIM cards belonging to him for the last 05 years, however, he acted clever and surrendered a new mobile containing the data only of 16.01.2024.

16. In summa, the instant petition is **dismissed**.

November 26, 2024
devinder

(KULDEEP TIWARI)
JUDGE

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