

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

264

CRM-M-36007-2022

Date of decision: 08.09.2022

KULDEEP KUMAR

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arihant Goyal, Advocate for the petitioner.

Mr. Madhur Sharma, DAG, Punjab.

PANKAJ JAIN, J. (oral)

This petition is filed for grant of anticipatory bail in case FIR No.334 dated 28.08.2019 registered under Sections 21, 22 and 25 of the NDPS Act, 1985 at Police Station, City Barnala, District Barnala.

Learned counsel for the petitioner contends that the petitioner was not apprehended from the spot and no recovery has been affected from him. He further submits that he was nominated on the basis of the disclosure statement made by Rashid and in view of the law laid down by the Apex Court in case of *Tofan Singh vs. State of Tamil Nadu, 2021 (4) SCC 1*, such evidence against the petitioner being the weak piece of evidence cannot be looked into, at this stage.

Per contra, learned counsel for the State submits that the petitioner is a habitual offender and he is nominated in another FIR under the NDPS Act. However, it is a case of recovery of commercial quantity of contrabands and

as per the disclosure statements suffered by the co-accused, the petitioner shown to be in possession of such contraband. He further submits that in view of the rigors of Section 37 of the NDPS Act, the petitioner will not be entitled for grant of anticipatory bail.

I have heard learned counsel for the parties and gone through the record of the case. Admittedly, it is a case of recovery of huge quantity of contrabands. In view of the dictum of law laid down by the Supreme Court in *State of Haryana vs. Samarth Kumar, 2022 (3) RCR (Criminal) 991*, so far as plea based upon the *Tofan Singh (supra)* is concerned, the same cannot be considered at the time of consideration on pre arrest bail.

Consequently, no ground is made out and accordingly, this petition is dismissed.

(PANKAJ JAIN)
JUDGE

September 08, 2022

Jyoti-IV

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