

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2024:PHHC:160527



CRM-M No. 60229 of 2024 (O&M)

Date of Decision: 02.12.2024

Shayam Kamboj alias Sham Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE**

Present : Mr. Anmol Rattan Sidhu, Senior Advocate with  
Mr. Pratham Sethi, Advocate, for the petitioner.

Mr. Shekhar Verma, Addl. Advocate General, Punjab.

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**SHEEL NAGU, CHIEF JUSTICE (Oral)**

The petitioner apprehends his arrest in respect of offence punishable under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 vide FIR No. 167 dated 06.11.2024 registered at Police Station Special Task Force, District STF Wing arising out of an incident where 740 tablets of Alprazolam and 440 tablets of Tramadol were recovered from co-accused Amandeep Singh @ Babbu. The said co-accused made a disclosure statement that the said tablets were purchased from S.S.Medical Store, Ratia, Haryana owned by Happy and Raj Kumar, who in turn brought the said tablets from the petitioner.

2. Undoubtedly, the narcotic drugs seized in the shape of tablets is of commercial quantity and therefore, bar contained in Section 37 of the NDPS Act would apply.

3. Learned senior counsel for the petitioner has relied upon a decision of the Apex Court dated 27.11.2024 passed in Special Leave to Appeal (Crl.) No. 14599 of 2024 (*Rajwinder Singh vs. State of Punjab*) where in similar circumstances but in respect of recovery of 150 kg. of poppy husk, the anticipatory bail was granted after the same had been rejected by this Court.

4. On the other hand, learned counsel for the State of Punjab has relied upon a decision rendered by the Supreme Court in *State of Haryana versus Samarth Kumar 2022 Live Law (SC) 622*, where anticipatory bail was denied despite the accused therein being faced with similar circumstances of no recovery having been made from him and implication being based on disclosure statement of co-accused.
5. In the judgment *State of Haryana versus Samarth Kumar (supra)* the Apex Court has considered the earlier decision rendered in *‘Tofan Singh vs. State of Tamilnadu 2021(4) SCC page 1*, and *inter-alia* held that granting of anticipatory bail in cases of such nature is not warranted.
6. Subsequent decision of the Apex Court relied upon by learned counsel for the petitioner i.e. *‘Rajwinder Singh vs. State of Punjab’* dated 27.11.2024, does not refer to the earlier decision of the Apex Court in *‘State of Haryana versus Samarth Kumar’* which in turn has referred to a detailed judgment in the case of *Tofan Singh vs. State of Tamil Nadu 2021(4) SCC 1*. Therefore, earlier judgment of the Apex Court in *State of Haryana versus Samarth Kumar (supra)* being more considered and detailed which more so has not been taken into account by the Apex Court in its subsequent decision rendered in *‘Rajwinder Singh vs. State of Punjab’* and denudes the precedential value of the subsequent verdict.
7. Therefore, this Court has no option but to rely upon the decision of Apex Court in *State of Haryana versus Samarth Kumar (supra)*. Consequently, the petition stands dismissed.

(SHEEL NAGU)  
CHIEF JUSTICE

02.12.2024

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| Whether speaking/reasoned | √Yes/No |
| Whether reportable        | Yes/No√ |