



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

CRM-M-38829-2025

Date of Decision:28.07.2025

Sahil Kathuria

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present: Mr. Kuldeep Singh Siwach, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Sr. DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 482 of B.N.S.S with a prayer to grant anticipatory bail to him in case arising out of FIR No.204, dated 04.06.2025, under Sections 22(c), 27-A of NDPS Act, registered at Police Station City Tohana, District Fatehabad.

2. The FIR in the present case was registered on the basis of a secret information and Rahul @ Kala co-accused was apprehended by the police and 80 strips containing 15 tablets each i.e. 1200 tablets of Alprazolam 0.50 mg, weighing 273.70 grams was effected from him, in the presence of Luv Kumar, E.T.O., Fatehabad.

3. Learned counsel for the petitioner contends that in the present case Rahul @ Kala co-accused was apprehended by the police, while carrying 1200 tablets of Alprazolam. However, the petitioner was neither named in the FIR nor there was any evidence to connect him with the commission of crime. The

only evidence allegedly collected against the petitioner is that the statement made by co-accused in police custody and the said evidence is inadmissible against him. He further contends that the petitioner was involved in three more cases under the provisions of NDPS Act and he was granted the concession of anticipatory bail by this Court on early occasions also.

4. On the other hand learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and is involved in following three more cases:-

(i) *FIR No.261 of 2020, under Sections 22-C,27-A,61,85 of NDPS Act, registered at Police Station Bhuna, District Fatehabad.*

(ii) *FIR No.226 of 2020, under Sections 22-C,27-A,61,85 of NDPS Act, registered at Police Station Sadar Tohana, District Fatehabad.*

(iii) *FIR No.628 of 2022, under Sections 22-C,29 of NDPS Act, registered at Police Station Barwala, District Fatehabad.*

Learned State counsel has further referred to the law laid down by the Hon'ble Supreme Court in the matter of **“State of Haryana Vs. Samarth Kumar”, 2022 LiveLaw (SC) 622**, wherein the Hon'ble Supreme Court held as follows:-

“4. *The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in **Tofan Singh v. State of Tamil Nadu** reported in (2021) 4 SCC 1.*

5. *But, it is contended by the learned Additional Advocate General appearing on behalf of the State of*

Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.

6. *Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.*

7. *The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.*

8. *In cases of this nature, the respondents may be able to take advantage of the decision in **Tofan Singh v. State of Tamil Nadu (supra)**, perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.”*

5. I have heard learned counsel for the parties and perused the record carefully.

6. In the present case, no doubt co-accused Rahul @ Kala was arrested by the police and 1200 tablets of Alprazolam were recovered from him. Even the total quantity of contraband recovered from him is 273.70 grams, which is commercial quantity as per the schedule appended to the NDPS Act.

In the present case, Rahul @ Kala was arrested and he named Sukhwinder Singh @ Chhotu, co-accused. On 04.06.2025, Sukhwinder Singh @ Chhotu was arrested and he specifically stated that the contraband recovered from Rahul @ Kala was supplied by Sahil Kathuria, the present petitioner. Even, in the past the petitioner was found involved in three more cases of NDPS Act and thus, it is apparent that the present petitioner is repeatedly involved in cases registered under the provisions of NDPS Act. Moreover, in the considered opinion of the Court, his custodial interrogation will be required to know the names of other persons, who might be involved in smuggling, the trail of money and modus operandi adopted by the petitioner and his co-accused.

7. Consequently, keeping in view the gravity of the offence as well as the need for custodial interrogation, the present petition is ordered to be dismissed by this Court.

8. Dismissed, accordingly.

28.07.2025
hitesh

(N.S.SHEKHAWAT)
JUDGE

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