

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

CRM-M-24472 of 2015

Date of Decision: January 22, 2016

Hardeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CRM-M-23243 of 2015

Armandeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. GPS Bal, Advocate
for the petitioner. (in CRM-M-23243 of 2015).

Mr. Karanvir Singh Khehar, Advocate
for the petitioner. (in CRM-M-24472 of 2015).

Mr. J.S. Brar, AAG, Punjab.

FATEH DEEP SINGH, J.

The above said two regular bail applications both under Section 439 Cr.P.C. of petitioner-Hardeep Singh and petitioner-Armandeep Singh which are being arising out of the same very FIR are being disposed off by this common order.

The allegations of the prosecution are that on 29.11.2014 the police of Police Station, Morinda, District Rupnagar

apprehended two youngsters on a motorcycle bearing registration PB-12-P-2646 and on their search the petitioner-Armandeep Singh was found to be driving the motorcycle, wherein, petitioner-Hardeep Singh was sitting on the pillion and between them a polythene bag carrying a plastic bottle was recovered. From the plastic bottle some liquid intoxicant substance in all measuring 2 litre i.e. 2000 millilitres was recovered which was orange in colour. On analysing, the liquid was found to be codeine phosphate.

Learned counsel for the petitioners have led dual attack contending that since codeine phosphate is not covered under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act') therefore, no offence whatsoever under Section 22 of the Act is made out and have sought to impress upon this Court that codeine phosphate is not a mixture and cannot by any means be termed as narcotic drug and has cited judgment in case **Amrik Singh vs. State of Punjab 1996(2) RCR (Criminal) 311**. The same is opposed by the State on the grounds that the it was derivative of the opium and, therefore, stands covered under the Act.

Appreciating the submissions, it needs to be reiterated here that codeine is a opiate derivative which is used as a painkiller as well as an expectorant. Learned counsel for the petitioners could not convince this Court that such a substance cannot be mixed with other substances, especially, phosphate, when it is a matter of common knowledge that codeine is marked both as a single ingredient drug as well as in combination preparations with other combinations phosphate. The other element found by the analyst is an organophosphate that being a phosphoric acid and regulation metabolic process and the counsel for the petitioner could not convince this Court that there could be no mixture of codeine and phosphate chemically. No

doubt, phosphates are minerals and in the absence of any impressive argument, otherwise, it cannot be accepted that codeine and phosphate cannot be mixed together and, therefore, ratio laid down in **Amrik Singh vs. State of Punjab 1996(2) RCR (Criminal) 311** does not comes to the aid of the petitioners together with the fact that it is not a case of petitioners that the alleged mixture was for any medical or scientific purpose and is adequately covered within the ambit of Section 8 of the Act and to the mind of this Court falls under the head serial No.35 of the list of Manufactured Narcotic Drugs so notified by the Government of India. More so, by virtue of notification issued by the Government is clearly a narcotic drug and there is no escape from this and it is not a pure drug content which matters but entire contents are to be considered in view of law laid down in **Harjit Singh vs. State of Punjab 2011(4) SCC 441**. Keeping in view that admittedly quantity beyond 1kg of a substance falls within the commercial quantity and there being no ground for release of the petitioners on bail, both the petitions stand dismissed.

(FATEH DEEP SINGH)
JUDGE

January 22, 2016
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