

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

CRM-M-32153-2018 (O&M)

Date of decision: 20.12.2018

Karambir Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Parminder Singh, Advocate
for the applicant-petitioner.

Mr. Surinder Singh, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-42862-2018

For the reasons mentioned in the application, the same is allowed. The main case, i.e. fixed for 21.02.2019, is preponed and taken up today itself.

CRM-M-32153-2018

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 1235 dated 03.12.2017, registered under Section 21 of the NDPS Act at Police Station City, Karnal.

Learned counsel for the petitioner submits that petitioner is in judicial custody since 03.12.2017 and as per the allegations in the FIR, when the police party apprehended the petitioner, recovery of 7 card boxes, each containing 15 bottles of liquid narcotic substance was made and each bottle was containing 900 Grams of liquid substance.

Learned counsel for the petitioner has relied upon the report of FSL, Madhuban, Karnal (Annexure P-2) to submit that as per the opinion, given by the FSL, the **Morphine** contents of the sample was in the range of **0.05% (w/v) to 0.06% (w/v)**. Learned counsel for the petitioner has further submitted that other content, i.e. **Ethyl Alcohol**, is not covered under the NDPS Act.

Learned counsel for the petitioner has referred to the definition of 'Opium derivative' wherein as per Section 2(xvi) Sub-Clause E of the NDPS Act, 1985, the Opium is defined as '**all preparations containing more than 0.2 per cent. of morphine or containing any diacetylmorphine**'.

It is, thus submitted by learned counsel for the petitioner that since the contents of Morphine, as per the report of the FSL, were less than 0.2%, therefore, it will be a debatable issue whether the charge against the petitioner is sustainable.

Learned State counsel, on instructions from ASI Ram Avtar and on the basis of the FSL report, could not dispute the factual position and submitted that out of total 09 prosecution witnesses, 03 have been examined so far. As per custody certificate, filed in Court today, the petitioner is not involved in any other case and he is in custody for the last more than one year.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the petitioner and also in view of the fact that petitioner is in custody for the last more than one year and he is not involved in any other case; the instant petition is allowed. The

petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

December 20, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No