

**CRL.MISC. NO.9239 OF 2018 &
CRIMINAL REVISION NO.974 OF 2018**

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

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**CRL.MISC. NO.9239 OF 2018 &
CRIMINAL REVISION NO.974 OF 2018
DATE OF DECISION: MARCH 26, 2018**

Ramesh

.....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

**Present: Mr. K. S. Dhaliwal, Advocate,
for the petitioner.**

AUGUSTINE GEORGE MASI, J. (ORAL)

Notice of motion in the application as also in the main revision
petition.

On the asking of the Court, Mr. Apoorv Garg, Deputy
Advocate General, Haryana, accepts notice on behalf of the State. As per the
report of the Registry, copy of the petition has already been supplied to the
office of the Advocate General, Haryana.

For the reasons mentioned in Criminal Misc. No.9239 of 2018,
which are duly supported by an affidavit of the petitioner, the application is
allowed and delay of 8 days in filing the present revision petition stands
condoned.

It is the contention of learned counsel for the petitioner that
charge dated 04.12.2017, whereby the petitioner has been charged to be in

conscious possession of 410 grams of opium/charas without any licence or permit and thereby committed an offence under Section 17 of the Narcotic Drugs and Psychotropic Substances Act, 1985, cannot sustain in the light of the fact that as per the report of the Chemical Examiner, the sample sent has been found to be opium containing 2.2% (w/w) morphine. He contends that since the sample has been found to be an opium, charge should have been framed under Section 18 the Narcotic Drugs and Psychotropic Substances Act, 1985, as it is covered by the said provision.

Counsel for the State could not dispute the assertion as made by counsel for the petitioner in the light of the report dated 13.11.2017 of the Regional Forensic Science Laboratory, Haryana.

In view of the above, the charge as framed against the petitioner stands modified as to be under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and accordingly he be tried for the said offence.

With these observations, the petition stands disposed of.

March 26, 2018
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No