

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

218

CRM-M-6636-2019

Date of Decision : 20.02.2019

Krishan Kumar and another

..... Petitioners

versus

State of Haryana

..... Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present : Mr.Aditya Sanghi, Advocate  
for the petitioners.

Mr. Himmat Singh, DAG, Haryana.

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**AJAY TEWARI, J. (ORAL)**

The petitioners seek grant of regular bail in case FIR No.03 dated 05.01.2019, registered under Section 15/16 of NDPS Act 61 of 1985, at Police Station Sadar Dabwali, District Sirsa on the ground that they have been in custody since 05.01.2019 and till date the FSL report has not come to certify that the alleged recovery is either a narcotic drug or not.

As per the learned counsel for the petitioners, in case of recovery of easily identifiable drugs like opium, ganja or charas or manufactured drugs which are labelled, a bare look may enable a reasonable identification but where the identity is in doubt it is most unfair to keep the person in custody indefinitely without even there being any evidence as to what the recovered material is.

Learned Additional Advocate General has accepted that till date the FSL report has not come and that the petitioners have been in custody since 05.01.2019.

In my opinion, in the absence of the FSL report it cannot be fair to keep the petitioners in custody indefinitely. Resultantly, the petition is partly allowed and the Chief Judicial Magistrate/Illaq Magistrate, Sirsa is directed to release the petitioners on interim bail to its satisfaction till the receipt of the FSL report and thereafter the trial Court to decide the application for bail on merits.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

February 20, 2019  
*anju*

(AJAY TEWARI)  
JUDGE

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|----------------------------------|---|---------------|
| <i>Whether speaking/reasoned</i> | - | <i>Yes/No</i> |
| Whether reportable               | - | Yes/No        |