

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

**Sr. No.234-2**

**CRM-M-40317-2020**

**Date of decision: 22.04.2021**

Balwan

....Petitioner

Versus

State of Haryana

....Respondent

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present: Mr. Ved Parkash, Advocate  
for the petitioner.

Mr. Kuldeep Tiwari, Addl.A.G., Haryana.

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**DEEPAK SIBAL, J. (Oral)**

The matter has been taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.258 dated 01.09.2020, registered under Sections 18, 21 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the 'NDPS Act') at Police Station Nissing, District Karnal.

Briefly stated, the case of the prosecution is that on receipt of secret information, the police set up a barricade; a maruti swift car bearing registration No.HR-05-AF-4789 which was coming from the side of village Bansa was stopped; the driver of the said vehicle, on being questioned, disclosed his name as Dharamveer @ Dharmu; after following the process prescribed under law, the car was searched; such search led to the recovery of 120 litres of liquid opium tincture; since for such possession no license could be produced by Dharamveer, a case under Sections 18 and 25 of the NDPS Act was registered and Dharamveer was arrested and during the course of investigation, Dharamveer @ Dharmu suffered a disclosure statement confessing therein the involvement of the petitioner on the basis whereof the petitioner was also nominated as an accused and arrested.

Learned counsel for the petitioner referred to the FSL report to contend that the contraband allegedly recovered from the petitioner was

morphine within the range 0.09 to .19 per cent and since its percentage was less than 0.2 per cent, the same would not fall under the definition of “opium” and resultantly, was not narcotics under the NDPS Act. To support his contention, reliance was placed on the judgments of this Court dated 11.03.2015 passed in CRR-373-2015 – Vinay Kumar and another vs. State of Punjab and dated 01.10.2018 passed in CRR-2723-2018 – Saudagar Ali vs. State of Punjab.

Learned State counsel does not dispute the above factual position but opposes the grant of bail to the petitioner on the ground that he is involved in the transportation of 120 litres of liquid opium tincture.

After considering the above factual position and in particular the FSL report read with the definition of “opium” as contained under the NDPS Act, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Karnal the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

**April 22, 2021**  
*Jyoti 1*

**(DEEPAK SIBAL)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No