

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

**Criminal Misc.No.M-27515 of 2015**

**Date of Decision: August 26, 2015**

Jaibir

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI**

Present: Mr.Ashwani Gaur, Advocate, for  
Mr.Sandeep Kotla, Advocate,  
for the petitioner.

Mr.Kuldeep Tiwari, Addl.AG, Haryana.

*1. Whether Reporters of Local papers may be allowed to see the judgment? Yes*

*2. To be referred to the Reporters or not? Yes*

*3. Whether the judgment should be reported in the Digest? Yes*

**Naresh Kumar Sanghi, J.**(Oral)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioner, Jaibir, who has been booked for having committed the offences punishable under Sections 20-B and 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985, in a case arising out of FIR No.729, dated 08.11.2014, registered at Police Station, City, Fatehabad.

Learned proxy counsel contends that as per prosecution version, one Ashok Kumar was driving the motorcycle while the petitioner and one Krishan were sitting on the pillion of the said motorcycle; a bag containing 1 kilogram and 100 grams of *charas* was allegedly recovered by the police;

Ashok Kumar, the person who was driving the motorcycle, has already been granted bail by this Court vide order dated 28.05.2015 passed in CRM-M-17232 of 2015 and Krishan has also been granted bail by this Court vide order dated 13.07.2015 passed in CRM-M-21584 of 2015. He also contends that recovery of the alleged contraband from the conscious possession petitioner would be a moot point during trial. He also submits that the petitioner is behind the bars from 08.11.2014 and after completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) has already been presented. He also submits that even if the whole case of the prosecution is taken at its face value, then also it will be a moot point that the contraband recovered from the motorcycle was of commercial quantity since the bag, in which the said article was lying, was not weighed after separating the bag. In support of his contention, he has placed reliance on a judgment of a Division Bench of this Court in the matter of **Raj Kumar vs. State of Punjab**, 2005(1) RCR(Criminal) 70.

Learned counsel for the State very fairly concedes that the co-accused of the petitioner have already been granted bail by this Court. He contends that bag from which the contraband was recovered was lying on the motorcycle in between three persons riding on it (motorcycle).

In view of the above, the present petition is allowed.  
Petitioner-Jaibir, s/o Munsha Ram, r/o village Pabra, Tehsil and

District Hisar, is ordered to be released on bail, during pendency of trial of the present case, subject to his furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Fatehabad.

**August 26, 2015**  
seema

**(Naresh Kumar Sanghi)**  
**Judge**