

CRM-M-15939-2016**256****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-15939-2016****Date of Decision: 20.05.2016****GURJANT SINGH****... Petitioner****VS.****STATE OF PUNJAB****.....Respondent****CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.**

Present: Mr. Vivek Solakhia, Advocate,
for Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

KULDIP SINGH, J (ORAL)

Heard.

The learned Additional Sessions Judge, Tarn Taran, vide order dated 18.09.2015 has granted regular bail to the present petitioner in a case registered under Section 395 of Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959. The operational part of the aforesaid order is reproduced as under: -

“Accordingly he is ordered to be re-admitted to bail subject to his furnishing bail bonds in the sum of Rupees one lacs with two sureties in the like amount against immovable property free from all kinds encumbrances out of which one must be local surety to the satisfaction of learned trial Court/Area Magistrate, that too on production of his previous surety, service of notice under Section 446 Cr. P.C. upon him by the learned trial Court/Area Magistrate and

after deposit of the fine to be imposed by the learned trial Court/Area Magistrate, his fresh bail and surety bonds shall be considered.”

Learned counsel for the petitioner contends that the condition imposed by the Court while readmitting the petitioner on bail is that the bail is subject to producing previous surety, service of notice under Section 446 Cr. P.C. upon him by the trial Court/Area Magistrate and after depositing of the fine to be imposed by the Magistrate/Area Magistrate, his surety bond shall be considered.

I am of the view that the conditions imposed by the learned Additional Sessions Judge, Tarn Taran, are prima facie illegal. Once the bail is granted to the accused, he cannot be compelled to produce the earlier surety and he cannot be detained till the proceeding against surety terminate.

It being so, the condition imposed in the bail order for production of previous surety, service of notice under Section 446 of Cr. P.C. and after depositing of fine to be imposed by trial Court/Area Magistrate, is set aside. Accordingly, fresh bail and surety bond of the petitioner are ordered to be accepted forthwith.

[KULDIP SINGH]
JUDGE

May 20, 2016
Suresh Kumar