

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

**CRL. MISC. No.M-33668 OF 2016 (O&M)
DATE OF DECISION : 30th SEPTEMBER, 2016**

Nishan Singh @ Sonu Gill

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Arshdeep Singh Brar, Advocate for the petitioner.

Ms. Rimplejeet Kaur, AAG, Punjab.

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A. B. CHAUDHARI, J. (ORAL)

Notice of motion.

Ms. Rimplejeet Kaur, AAG, Punjab accepts notice on behalf
of the State.

Rule heard forthwith with the consent of learned counsel for
the rival parties.

The petitioner was granted statutory bail under Section
167(2) Cr.P.C. as the period of sixty days was completed but the challan
was not filed. The amount of bail ordered was in the sum of ₹50,000/-.
The petitioner could not file the surety to the said extent. Immediately
thereafter, i.e. on 62nd day challan was filed by the police. By the
impugned order the trial Court has recalled that earlier order granting bail
under Section 167(2) Cr.P.C., only on the ground that the challan was
filed and therefore the right to the statutory bail stood exhausted.

In the first place the trial Court could not have reviewed its own order. The order, therefore, is clearly illegal.

That apart, the right to statutory bail upon completion of the period of sixty days can not get extinguished merely by virtue of filing of challan under Section 167(2) Cr.P.C. on the 62nd day, else the statutory provision would become nugatory. That is not the object of the provision for grant of statutory bail. The impugned order for both the above reasons must be held to be illegal.

In that view of the matter, impugned order dated 19.08.2016 (Annexure P-3) is quashed and set aside and the petitioner is allowed to furnish bail bonds in the sum of ₹50,000/- as per original order by the trial Court.

Bail to the satisfaction of the concerned CJM/Duty Magistrate.

30th SEPTEMBER, 2016
'raj'

(A. B. CHAUDHARI)
JUDGE

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