

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

**CRL. MISC. No.M-33676 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 bond to the said extent.
Immediately thereafter, i.e. on 62nd day, the 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 my opinion, in the first case the trial court would not have reviewed its own order in view of Section 362 Cr.P.C. The order, therefore, clearly becomes illegal.

That apart, the grant of statutory bail awarded by the Parliamentary Act, upon completion of the period of sixty days, could not extinguish, merely by virtue of filing of challan under Section 167(2) Cr.P.C. on the 62nd day, thereby, making the statutory provision nugatory. That is not the object of the provision to grant statutory bail.

In my opinion, therefore, the impugned order for both the above reasons must be held to be illegal.

In that view of the matter, impugned order is quashed and set aside and the petitioner is allowed to furnish bail bond 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.