HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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S.B. Criminal Misc. Application No. 342/2020.

IN

S.B. Criminal Misc. Bail Application No. 8987/2020

(Decided on 16.12.2020)

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Saleem Mohammad S/o Sh. Hayat Mohammad, aged 36 years, R/o Gudia, PS Tibbi, District Hanumangarh (Rajasthan).
(At present lodged in Sub Jail, Rajgarh, Churu).

----Petitioner

Versus

The State of Rajasthan

----Respondent

For Petitioner(s)	:	Mr. R.S. Gill through VC.
For Respondent(s)	:	Mr. Sudhir Tak, PP.

HON'BLE MR. JUSTICE DEVENDRA KACHHAWAHA

Order

17/12/2020

The present criminal miscellaneous application on behalf of the petitioner seeking recalling of the order dated 16.12.2020 passed by this Court in S.B. Criminal Misc. Bail Application No. 8987/2020 which was filed under Section 439 Cr.P.C.

Learned counsel Mr. Gill appearing for the applicant-petitoner submits that the bail application has been filed by him as a first bail application, the office has treated the same as first bail application on behalf of the petitioner and consequently, the same has also been decided by this Court, treating the same as the first bail application filed on behalf of the petitioner. Learned cousnel further submits that later on, he came to know the fact that earlier also, on three occasions, the bail applications filed on behalf of the petitioner were dismissed as not pressed by the coordinate Bench/s of this Court and as a result of this, the bail application filed by him on 17.08.2020 would be treated as Fourth Bail Application on behalf of the petitioner; and as per Rules & Procedure, that 4th Bail Application was required to be listed before the same Bench, who dismissed the earlier bail applications of the petitioner.

With the above submissions, learned counsel for the petitioner requested the Court to recall the order dated 16.12.2020 passed by this Court in S.B. Criminal Misc. Bail Application No. 8987/2020.

Learned Public Prosecutor submits that in the circumstances of the case, appropriate orders may be passed by the Court.

Having heard learned counsel for the petitioner and having perused the material available on record, this Court is satisfied that the Bail Application No.8987/2020 would be treated as Fourth Bail Application on behalf of the petitioner and the same would be listed before the same Bench dismissing the third bail application.

Admittedly, the Bail Application No.8987/2020 has been filed as a first bail application for the reason that the learned counsel appearing on behalf of the petitioner has not mentioned it to be fourth bail application in the chart at column No. 6, available as first page of the file. Apart from this, inadvertently, the Registry has also omitted to point out that the Bail Application No.8987/2020 is the fourth bail application on behalf of the petitioner, while preparing the match details, available on page number two of the file. In the last, as the file was passed by the Stamp Reporter Section, treating the Bail Application No.8987/2020 as a first bail application, the same was got listed and decided by this Court treating it to be a first bail application.

Even during the course of arguments in the Bail Application No.8987/2020, learned counsel appearing for the parties have not mentioned it to be a fourth bail application on behalf of the

petitioenr and as such, the same has been allowed by this Court vide order dated 16.12.2020.

In view of the aforementioned circumstances, due to bona fide mistake, that Bail Application No.8987/2020 was heard and allowed by this Court on 16.12.2020, for the reason that the fact about decision of the earlier three bail applciation by the coordinate Bench has not been apprised to this Court.

Resultantly, the instant Criminal Misc. Application is allowed and the order dated 16.12.2020 is recalled.

As a result of recalling of the order dated 16.12.2020, list this matter before appropriate Bench.

(DEVENDRA KACHHAWAHA),J

Spl. Supplementary-Mohan/-