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CRM-M-32812-2020

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

**CRM-15328-2021 in/and
CRM-M-32812-2020
Date of Decision :-12.7.2021**

Nishant @ Nishu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr.H.P.S. Ishar, Advocate
for the applicant/petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S.MADAAN, J. (ORAL)

Case taken up through video conferencing.

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This application under Section 482 Cr.P.C. has been filed by the applicant-petitioner for preponing the date of hearing fixed in the main petition as 14.9.2021 and for withdrawal of the said petition with liberty to furnish the bail bonds before the trial Court in terms of order dated 13.2.2020.

In the application, it is contended that Chief Judicial Magistrate, Panchkula vide order dated 13.2.2021 had allowed bail to the

present petitioner/accused Nishant @ Nishu; however, this fact did not come to the notice of petitioner/accused or his counsel and an application for regular bail was filed before learned Sessions Judge, Panchkula on 3.9.2020, which was declined vide a detailed order dated 15.9.2020, copy of which being Annexure P3. Thereafter, the petitioner has approached this Court craving for grant of regular bail. The main petition is now listed for 14.9.2021.

A very peculiar and unusual situation has arisen. A perusal of the order passed by Chief Judicial Magistrate, Panchkula, copy of which has been attached with the instant application as Annexure A1 goes to show that the order was passed in presence of petitioner/accused, who was in custody and represented by counsel Sh.Saurabh Sharma, Advocate. It is very strange that neither petitioner/accused nor his counsel would come to know about the order granting regular bail to the petitioner/accused and rather learned Sessions Judge, Panchkula was approached by way of filing application for regular bail. It is very surprising that without verifying and going through the order passed by Chief Judicial Magistrate, Panchkula, learned Sessions Judge, Panchkula proceeded to dispose of the application for regular bail when it should not have been done as bail had already been granted to the petitioner by Chief Judicial Magistrate, Panchkula. Neither Sh. Swaran Singh, Advocate representing petitioner/accused nor Sh.Romil Lamba, Public Prosecutor for the respondent/State is shown to have brought this fact to the notice of learned Sessions Judge, Panchkula. If they had done so, then such type of situation could have been avoided. It was incumbent upon the police

authorities to assist the Court properly and intimated with regard to the order passed by learned Chief Judicial Magistrate. A perusal of order passed by learned Sessions Judge, Panchkula Annexure P3 goes to show that reply to the bail application had been filed by the prosecution. In the reply itself, this fact should have been mentioned but it appears that it was not so done. Thereafter, when the petition for regular bail was dismissed, the petitioner has approached this Court, in the process, precious time of learned Sessions Judge, Panchkula and this Court has been wasted and on his part the petitioner himself has remained behind bars for a period of more than 1 year and 4 months on account of non functioning of Courts etc.

Let explanation be rendered by Sh.Subhas Mehla, the then Sessions Judge, Panchkula as to how this situation has cropped up. Learned State counsel shall bring this order to the notice of Director, Prosecution, Haryana and DGP, Haryana so that responsibility of the persons at fault can be fixed and necessary action taken against them. The explanation be furnished by 12.8.2021 after informing Director, Prosecution, Haryana and DGP, Haryana. Learned State counsel shall intimate this Court in that regard.

However, with regard to instant application seeking preponement of the date of hearing fixed in the main petition as 14.9.2021 and for withdrawal of the said petition, the same is allowed and permission is granted to the applicant-petitioner to withdraw the main petition i.e. **CRM-M-32812-2020**.

On oral request of learned counsel for the applicant-

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petitioner, the main petition i.e. **CRM-M-32812-2020** is preponed for
today.

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Dismissed as withdrawn.

12.7.2021

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**(H.S.MADAAN)
JUDGE**

Whether reasoned/speaking : **Yes/No**

Whether reportable : **Yes/No**