

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

**CRM-M-39364-2019
Date of Decision: 20.12.2022**

Ishaq Ahmed

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Manu Sachdeva, Advocate for
Mr. Abhimanyu Singh, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER J. (ORAL)

This petition under Section 482 Cr.P.C. has been filed by petitioner seeking setting aside of impugned orders dated 23.04.2019 (Annexure P-3) and 08.05.2019 (Annexure P-4) passed by the Additional Sessions Judge, Gurugram, whereby non-bailable warrants were issued for securing presence of petitioner.

Learned counsel for the petitioner submits that the petitioner was falsely implicated in case FIR No. 523, dated 21.08.2014, under Section 451 IPC, registered at Police Station Sector 10, District Gurgaon. It is submitted that the petitioner was convicted by the Court of learned Judicial

Magistrate Ist Class, Gurugram, vide judgment dated 20.09.2017 (Annexure P-1), and he was sentenced to undergo simple imprisonment for 2 years along with payment of fine of Rs.1,000/-, vide order dated 21.09.2017. It is further submitted that the petitioner challenged the said judgment of conviction and order of sentence by filing an appeal before the Court of learned Additional Sessions Judge, Gurugram (lower Appellate Court).

Learned counsel for the petitioner submits that petitioner had earlier been granted bail by the lower Appellate Court and he had been appearing before the Court on each and every date. Thereafter, the petitioner could not appear on 23.04.2019 as he had gone to Bareilly to cast his vote in the Lok Sabha Elections. Since he was not aware about the next date fixed before the lower Appellate Court, he again absented himself on 08.05.2019.

Thereafter, the petitioner filed the instant petition seeking quashing of order dated 23.04.2019 (Annexure P-3) and order dated 08.05.2019 (Annexure P-4). On 16.09.2019, the petitioner was directed by this Court to appear before the trial Court, upon which he would be released on ad-interim bail to the satisfaction of the trial Court/Duty Magistrate.

Learned counsel for the petitioner submits that in pursuance of order dated 16.09.2019, passed by this Court, the petitioner had furnished bail bonds before the Duty Magistrate, Gurugram on 22.09.2019 and the matter was adjourned for 24.10.2019. It is stated that on 24.10.2019, non-bailable warrants were wrongly ordered to be issued against the petitioner despite the fact that he had appeared before the Duty Magistrate, Gurugram on 22.09.2019 and furnished bail bonds in compliance of order dated 16.09.2019, passed by this Court.

Learned counsel for the petitioner has furnished a copy of

order dated 30.10.2019 passed by the Additional Sessions Judge, Gurugram, rectifying the said mistake. Order dated 30.10.2019 reads as under:-

“Present: Sh. V.S. Chauhan, Advocate for appellant Ishaq Ahmed.

Sh. Ramniwas Yadav PP for the State.

File has been taken up on the application moved by ld. counsel for the accused for correction of the zimni order by maintaining that accused Ishaq Ahmed is on bail in this case. Perusal of the case file reveals that accused had absented from this court and as such his bail was cancelled and his non-bailable warrants were issued. The accused had approached Hon'ble High Court for grant of anticipatory bail and vide order dated 16.09.19 Hon'ble High court had admitted him to interim bail to the satisfaction of trial court / duty magistrate. In pursuance of the said order dated 16.09.19 the accused had furnished bail bonds before Ms. Suyasha Jawa, Ld. Duty Magistrate, Gurugram on dated 22.09.19. The case was fixed for 27.09.19 in this court but file was taken up on 25.09.19 as this court was on leave on that date and case was adjourned for 24.10.19. On this date non-bailable warrants of the accused were ordered to be issued despite the fact that he had appeared in the court however the said mistake is rectified and accused is marked on interim bail in this case in compliance of the order passed by Hon'ble High Court. The mistake stands rectified.

*(Ashwani Kumar),
Additional Sessions Judge,
Gurugram, 30.10.2019
UID No. HR 0156”*

Learned counsel for the petitioner submits that as per direction of this Court, the petitioner had already appeared before the Court and he has been admitted to bail. It is further submitted that the petitioner is appearing before the Court of learned Additional Sessions Judge, Gurugram and he undertakes that he shall continue to do so; and the appeal is now

listed on 10.02.2023 for arguments.

In view of the aforementioned facts and circumstances, since the petitioner has been admitted to *ad interim* bail, he is appearing before the Court of learned Additional Sessions Judge, Gurugram and it is stated that petitioner shall continue to appear before lower Appellate Court thus, order dated 16.09.2019, passed by this Court, is made absolute.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of this petition, at this stage.

The present petition is accordingly disposed of.

20.12.2022

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No