

**IN THE COURT OF PUNEET MOHAN SHARMA,
ADDITIONAL SESSIONS JUDGE, (UID NO. PB0167)
SHAHEED BHAGAT SINGH NAGAR**

Date of Institution: 17.03.2020.
Date of order : 18.03.2020.
CNR No.PBSB01001093-2020.

Paramjit Singh aged about 50 years son of Gurmail Singh,
Resident of village Salempur Masandan, PO Talhan, PS
Nangal Shama, District Jalandhar.

Versus.

1. State of Punjab
2. Harjinder Singh aged about 60 years son of Harbans Singh,
resident of village Kahma, PS Sadar Banga, Tehsil
Nawanshahr, District SBS Nagar,

Present: Sh. Baldev Raj, counsel for the accused/applicant
Paramjit Singh.
Sh. Varinder Kumar, Addl. P.P for the State.

Bail Application U/S 438 Cr.P.C

ORDER:

1 Vide this order, I shall dispose of bail application U/S 438
Cr.P.C filed by applicant/accused Paramjit Singh in complaint case under-
section 138 of Negotiable Instrument Act.

(Puneet Mohan Sharma, ASJ,SBS Nagar UID No.PB0167)

2. Briefly, the facts are that the main case was disposed off by the court of Ms. Harpreet Kaur Nafra, JMIC, SBS Nagar on 15.01.2020. Applicant was declared as proclaimed offender in this case and now police is threatening to arrest the applicant. That the applicant is peace loving and law abiding citizen and he further undertakes not to temper with the complainant evidence and will not misuse the concession of the bail if granted. Applicant further undertakes not to leave the country without prior permission of the court. Hence, prayed is made for releasing him on anticipatory bail.

3. Notice of this bail application was issued to the state but no reply has been filed. However, the bail application resisted by the Addl. PP for the State.

4. I have heard ld. counsel for the applicant/accused and Ld. Addl.P.P for the state and gone through the record produced by the Investigating Officer of the case.

5. Ld. Counsel for the applicant submitted that accused has allegedly committed offence under-section 138 of NI Act and was

declared as proclaimed offender on 15.01.2020. Whereas he was never served personally at any stage during the trial. Since, the accused was having no knowledge of pending proceedings against him, therefore, he should be given the benefit of anticipatory bail as the local police threatening him to arrest being a proclaimed offender.

6. On the other hand, Ld. Addl.P.P for the state opposed the bail application by submitting that discretionary relief of anticipatory bail should not be extended to a proclaimed offender and prayed for dismissal of the bail application.

7. Perusal of the record of the Ld. Trial Court shows that the applicant/accused was summoned for 29.08.2019 and on that day summon was not received back and the court issued his bailable warrants for 05.10.2019. On 05.10.2019 his bailable warrants were received back unexecuted and non-bailable warrants were ordered to be issued for 18.11.2019 to secure the presence of the accused. On 18.11.2019 his non-bailable warrants were received back unexecuted and trial court recorded its satisfaction that accused was evading the process of the court and he was ordered to be summoned through proclamation for 02.01.2020. Ultimately applicant-accused was declared as proclaimed offender on

15.01.2020. Careful perusal of the Lower Court file shows that during the entire process of securing the presence of the accused-applicant, he was never served personally at any stage. In these circumstances, it can not be construed that if the accused was having knowledge of the complaint case pending against him or not. Even otherwise, the allegations leveled against the accused are under-section 138 of NI Act and which is bailable in nature. Since, accused is having a threat of arrest being proclaimed offender, therefore, Keeping in view the facts and circumstances of the present case discussed above, the bail application filed by applicant Paramjit Singh is allowed subject to condition that he shall appear before the Ld. Trial Court within 10 days and in such event he shall be released on bail on furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of the Ld. Trial Court. The observations made by this Court while deciding this application are only for limited purposes for adjudication of the bail application and as such, are not to be construed expression of merits of the case. Record be returned and file be consigned to record-room.

Pronounced:

(Puneet Mohan Sharma)
Additional Sessions Judge, SBS Nagar
UID:PB-0167

Date of Order: 18.03.2020.
~Lakshmi~ Stenographer Gr.III