

Amrinder Singh Vs. State of Punjab
B.A. Filing ID No. 2715-2022
CNR No. PBSA01-009913-2022

FIR no. Not Known, dated: Not known
under Sections: Not Known
P.S. Not known, District SAS Nagar, (Mohali).

Bail application under Section 438 Cr.P.C.

Present: Sh. Sumesh Jain, Advocate, counsel for the accused/applicant
Sh. R.S. Jauhal, Addl. PP for the State

1. Applicant/Accused namely Amrinder Singh son of Kirpal Singh, resident of House No. 572, Street No. 1, Near Panchyati Gurdwara, Tripuri Town, Patiala. Office Address:- M/s Solutions 1313, SCO-54, 2nd Floor, Sector-82, JLPL Mohali, Punjab, has sought pre-arrest bail under Section 438 Cr.P.C.

2. Today, C. Navroze Singh, No. 1021/SAS Nagar, now posted as Naib Reader with SP, City, Mohail has come present and suffered a statement to the effect that application moved by Amandeep Singh Gill against Amarinder Singh and his wife Damanpreet Kaur is pending for inquiry. Till today, no FIR has been registered against Amarinder Singh on the said application. He placed on record the copy of the application as Mark-A.

3. Having considered the aforesaid statement, it is observed that Section 438 Cr.P.C. is a procedural provision, concerned with personal liberty of an individual who is entitled to plead innocence. Since he is not on the date of application accused for the offence in respect of which he seeks bail, he must show that, he has reason to believe that he may be arrested for a non-bailable offence-Mere 'fear' is no 'belief, Vague apprehension is not enough. A belief is founded on reasonable ground only if there is something tangible to go by on the basis of which it can be said that applicant's apprehension regarding his arrest is genuine.

4. It is trite law that no blanket order should be passed under Section 438 Cr.P.C. to prevent the accused from being arrested when there is no crime registered against him. The procedure to be adopted is to direct the investigation to comply with the requirement under Section 41 A Cr.P.C., before effecting the arrest of accused so as to enable him to exhaust the remedy under Section 438 Cr.P.C. The applicant will get a right to exhaust the remedy under Section 438 Cr.P.C. based on the subsequent accusation and it cannot be curtailed by invoking the jurisdiction under Section 439 (2) Cr.P.C.

5. In case titled as **State of Kerala v. Ansar M.C., Crl. M.C. No.4051 of 2020, decided on 21-10-2020**, it has been observed that “When no crime was registered against the first respondent, it is not permissible to grant anticipatory bail, on the reason that it would act as a blanket as against all sort of accusations which may arise in future against the said person.”

6. In view of the statement suffered by **C. Navroze Singh, No. 1021/SAS Nagar, now posted as Naib Reader with SP, City, Mohail** has come present and suffered a statement to the effect that application moved by Amandeep Singh Gill against Amarinder Singh and his wife Damanpreet Kaur is pending for inquiry. Till today, no FIR has been registered against Amarinder Singh on the said application, as such, as per the provisions of Section 438 Cr.P.C and in view of the cited law, the present bail application stands dismissed being infructuous. Bail application file be consigned to the Record Room.

Pronounced.
14.10.2022

Bhupinder Singh
Stenographer-II

(Avtar Singh)
Addl. Sessions Judge.
S.A.S. Nagar, (Mohali).
(UID No. PB00086)