

IN THE COURT OF SH. GURMOHAN SINGH,
ADDITIONAL SESSIONS JUDGE,
FEROZEPUR.
(UID NO.PB-0573)

CIS No. BA 2795 of 2020
CNR No.PBFZ010054692020
Date of Order: 22.01.2021

Malkit Singh aged 32 years son of Dharam Singh, resident of village
Mehmood Wala, Tehsil Zira, District Ferozepur.

.....Accused/Applicant.

Versus

State Bank of India, a Body Corporate Constituted under the provisions
of the State Bank of India, 1955 (23 of 1955) and the Successor to the
State Bank of Patiala, under the acquisition of State Bank of Patiala order
2017 passed by the Central Government under section 35 of the State
Bank of India, Act, 1955 and having branch office at Mundi Churri
Marra, Tehsil Zira Camp at Makhu, through its Manager.

.....Complainant/Respondent.

**Anticipatory bail under section 438(i) Cr.P.C. in
complaint under section 138 of Negotiable
Instruments Act.**

Present: Sh. Birinder Singh Bhullar, counsel for accused/ applicant
Sh.Vijay Kumar Bansal, counsel for the respondent.

O R D E R:

1. The present bail application has been filed by applicant
Malkit Singh under Section 438 (i) Cr.PC being apprehending his arrest

in the complaint case titled as 'State Bank of India Vs. Malkit Singh' under section 138 of Negotiable Instrument Act pending before the court of Judicial Magistrate Ist Class, Zira.

2. Brief facts of the case are that the complaint under section 138 of Negotiable Instrument Act has been filed by the respondent against the applicant in which vide order dated 21.12.2017 applicant/accused has been summoned. Thereafter, accused/applicant appeared on 19.07.2018 and later on due to absence of the accused/applicant on 12.02.2020 and 02.03.2020 his bail order has been cancelled and non-bailable warrants has been issued. Thus, apprehending his arrest accused/applicant has filed the present bail application.

3. Notice was issued to the respondent. Sh. Vijay Kumar Bansal Advocate has appeared on behalf of the respondent. Record has been produced.

4. Learned counsel for the applicant submits that accused/applicant is innocent. Further submits that the accused/applicant could not appear before the trial court because his father was ill and he took his father to various hospitals and moved application before the trial court for exemption on 18.12.2019. However, the condition of the father of

accused/applicant was very serious, therefore he was busy in saving the life of this father and ultimately counsel for the accused/ applicant intimated the accused/applicant that on 02.03.2020 non-bailable warrant has been issued against accused/applicant. Further submits that accused/applicant tried to appear before the learned trial court on 30.03.2020, which was the date fixed in his case, but at that time due to lockdown imposed in the country due to Corona Virus, he could not appear. As such his absence from the learned trial court was neither intentional nor deliberate. Further prays that present bail application be allowed.

5. Counsel for the respondent submits that present case was pending at the stage of defence evidence and in order to avoid punishment and payment, the accused/applicant has intentionally remained absent and thus, no ground is made out to grant the extra ordinary concession of the bail to the application.

5. After hearing learned counsel for the accused/applicant, learned counsel for the respondent and perusal of the record, it reflects that a complaint case under section 138 of Negotiable Instrument Act has been filed against the accused/applicant in which accused/applicant was

summoned vide order dated 21.12.2017 and subsequent thereto, accused/applicant appeared before the learned trial court on 19.07.2018 and furnished bail bonds. Thereafter during the pendency of the case, accused/applicant became absent on 12.02.2020. However, on the said date no adverse order was passed against the accused/applicant, rather notice was ordered to be issued for 02.03.2020. Record further reflects that on 02.03.2020 accused/applicant again did not appeared and resultantly, his bail order was cancelled by the learned trial court and he was ordered to be summoned through non-bailable warrants for 30.03.2020. Thereafter, due to outbreak of Covid-19, a lockdown was imposed and during the lockdown period, the court were not working regularly. Further, it is the plea of the accused/applicant that he was busy in getting the treatment of his father as he was seriously ill, therefore, he could not appear before the learned trial court 12.02.2020 and 02.03.2020. Thus, taking into consideration the entire facts and circumstances of the case, this court is of the considered opinion that no fruitful purpose would be served by sending the accused/applicant behind the bars in the offence, which is bailable in nature. Accordingly, accused/applicant is hereby directed to surrender before the trial

court/Duty Magistrate within **ten days** and on his surrender, he shall be admitted to bail, subject to satisfaction of learned Trial Court/Illaqa Magistrate/Duty Magistrate, Zira. Trial court file be returned alongwith copy of this order. Present bail application is accordingly disposed off and file be consigned to the record room.

Pronounced in the open court.

Sd/-

Date of Order: 22.01.2021.

'Pritpal Singh'

Stenographer Grade-II

(Gurmohan Singh)
Additional Sessions Judge,
Ferozepur
(UID No. PB-0573)

Malkit Singh Vs. State Bank of India

Present: Sh. Birinder Singh Bhullar, counsel for accused/ applicant
Sh. Vijay Kumar Bansal, counsel for the respondent.

Sh. Vijay Kumar Bansal Advocate filed power of attorney on behalf of respondent. Arguments heard. Vide my separate and detailed order of even date, the present bail application is disposed off with directions. Lower court record be returned alongwith copy of this order. File be consigned to Record Room.

Pronounced in the open court.

Sd/-

Date of Order: 22.01.2021.

'Pritpal Singh'

Stenographer Grade-II

(Gurmohan Singh)
Additional Sessions Judge,
Ferozepur
(UID No. PB-0573)