

**IN THE COURT OF DR. RAJNEESH,
ADDITIONAL SESSIONS JUDGE,
CHANDIGARH.
(PB0172)**

Bail Application No.	1131 of 11.07.2022
Date of Decision	14.07.2022
CNR No.	CHCH01-004315-2022
UID	PB0172

Nitish Kapoor aged 37 years son of Sh. Kamal resident of House No.447/A, Sector 61, Chandigarh.

... Applicant.

VERSUS

State of UT, Chandigarh.

... Respondent.

Bail application under Section 438 Cr.P.C.

Argued by:

Shri Harsh Nagra, counsel for applicant.

Shri J.P. Singh, Public Prosecutor for State/respondent No.1.

Shri R.K. Dogra, counsel for respondent No.2.

O R D E R

Applicant Nitish Kapoor, seeks pre-arrest bail in complaint case titled as Jatinder Sharma vs. M/s Unitech and others.

2. Upon notice, the learned PP for the State and Ld. Counsel for complainant opposed the bail application while reiterating the contents of complaint. Original file has been summoned from the learned Trial Court.

Dr. Rajneesh,
ASJ,Chd./14.07.2022

3. I have considered the arguments, put forth by both the sides and scrutinized the record.

4. It is submitted by the applicant as well as argued by his counsel that he has been falsely implicated in this case though he has not committed any offence. He has not committed any cheating. He was only an employee of the company in which complainant had invested his money. It is further submitted that summons were sent to him on 04.07.2022 to appear before the court on 06.07.2022, but on seeing the summons he got panic attack and was unable to attend the court on 06.07.2022. Thereafter, he appointed an advocate and on checking the case status, he came to know that arrest warrants have been issued against him. He undertakes to join the proceedings of trial before the learned Trial Court. He is ready to abide by all the terms and conditions to be imposed by the Hon'ble Court. Hence, the prayer for relief of anticipatory bail.

5. As is transpired from the record, the applicant has been summoned in the complaint filed by the complainant Jatinder Sharma against M/s Unitech Ltd. and others u/s 403, 405, 406, 420 r/w 120-B IPC for defrauding and alluring him. Despite service of notice, he did not appear and was ordered to be summoned by way of non bailable warrants of arrest. There is nothing on record to reflect that the applicant has any previous criminal antecedent. No recovery is to be effected from him, therefore, his custodial interrogation is not required. In the given

circumstances, without dilating further on the merits of case, the Court is of the opinion that no useful purpose is to be served by sending the applicant behind the bars. Rather, it may burden the state Exchequer. So far the averments of complaint are concerned, those are matters to be appreciated only after taking evidence during trial. Hence, the bail application is **allowed** with the observation that applicant Nitish Kapoor will surrender before the learned Trial Court within fifteen working days and in the event of arrest, he shall be released on bail on execution of the bonds to the satisfaction of Trial Court/Duty Magistrate, subject to the condition that he will appear on each and every date of hearing in the Trial Court.

7. However, it is made clear that in the event of absence of accused on any date of hearing (without any reason or justification) the benefit of bail allowed to the accused shall stand withdrawn and the learned Trial Court shall be competent to cancel the bail bond and surety bond and proceed to procure their presence in accordance with law. In that eventuality, the applicant-accused shall have to apply for bail afresh.

8. The Trial Court record be returned. Bail papers be consigned to the Record Room.

Announced in open Court.
Dated: 14.07.2022.
Himanshu, JW.

(Dr. Rajneesh)
Additional Sessions Judge,
Chandigarh (UID-PB0172)

(Directly dictated)

Nitish Kapoor vs. State

Present: Shri Harsh Nagra, counsel for applicant.
Shri J.P. Singh, Public Prosecutor for State/respondent No.1.
Shri R.K. Dogra, counsel for respondent No.2/complainant.

Power of attorney on behalf of complainant filed by the
above named counsel. Reply not filed.

Arguments heard. Vide my separate detailed order of even
date, application stands allowed. Trial court record along with a copy of
this order be sent back to the court concerned. Bail papers be consigned to
the record room after due compliance.

Announced in open Court.

Dated: 14.07.2022.

Himanshu, JW.

(Dr. Rajneesh)
Additional Sessions Judge,
Chandigarh (UID-PB0172)