

BA 100 of 2022    Naresh Kumar versus State of Punjab  
CNR No. PBFZC0-000251-2022

Present:-    Sh. Kanwar Mohabbat Advocate, counsel for bail  
applicant.  
Sh. B.S. Bhatti, Addl. P.P. for the State.

Heard. This is an application seeking pre-arrest bail u/s **438 (1) Cr.P.C.** moved on behalf of applicant/accused Naresh Kumar in FIR no. 69 dated 01.04.1997 under sections 420, 407, 120-B IPC registered at police station Sadar, Fazilka.

2.            Summoned record has been received. Its perusal makes out that Court of Shri Charanjeet Arora, the then Judicial Magistrate Ist Class, Fazilka acquitted one of the accused Varinder Kumar Goyal on 28.10.2010, but during pendency of the said trial, his co-accused Rakesh Kumar Sharma, Sat Pal, Naresh Kumar (bail applicant) and Ankeshwar Kumar Sharma were declared Proclaimed Offenders. Perusal of the zimni orders of the summoned file transpires that accused Naresh Kumar had been regularly appearing before the Trial Magistrate till 28.10.2002, but on that day, due to his unauthorized absence, his arrest warrants were issued and ultimately accused Naresh Kumar was declared a 'Proclaimed Offender'.

3.            Learned counsel for the bail applicant submitted that absence of the accused-bail applicant was not intentional, but due to occurrence of a compromise with the complainant, but it has rightly been interjected by learned Addl. PP that it is a gross misuse of concession of regular bail by the bail applicant. I also find that the accused, on whatsoever pretext, after absenting from the Court, enjoyed a freedom for another 10 years. In the given circumstances, instead of filing pre-arrest bail application, he should have surrendered his person before the Trial Magistrate so as to suffer the consequences. Due to unauthorized absence from the Court, the trial before the Trial Magistrate was withheld for a considerable time. The fact that

ultimately the remaining accused were acquitted has no effect upon culpability of the present bail applicant. Consequently, the pre-arrest bail application is dismissed.

4. Bail application file be consigned to the Record Room, Fazilka.

5. Summoned record be sent back forthwith.

sd/-

(Tarsem Mangla),  
Sessions Judge,  
Fazilka (UID No. PB0049)

Dated: 04.02.2022.

‘Bhola Shankar’  
‘Stenographer Gr.I’