

**IN THE COURT OF SH. KULBHUSHAN KUMAR,
(UID No.PB0170) ADDITIONAL SESSIONS JUDGE,
PATHANKOT.**

PBPO010033092022



CIS No.BA/1069/2022.
CNR No. PBPO010033092022.
Date of order: 25.11.2022.

Satish Kumar aged 39 years son of Dev Raj, resident of Mankot, Kangra,
Himachal Pradesh.

.....Accused/Applicant.

Versus

State of Punjab

FIR No.100 dated 02.11.2017.
Under Section: 304-A, 279, 427 IPC.
Police Station: Shahpurkandi.

Application under section 438 Cr.P.C.

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Present: Sh. Deepak Bhardwaj Advocate counsel for accused/
applicant.
Sh. Vivek Puri, Additional Public Prosecutor for the State.

ORDER:

1. This order of mine shall dispose of bail application filed U/s 438 Cr.P.C. by applicant/accused Satish Kumar son of Dev Raj, resident of Mankot, Kangra, Himachal Pradesh. for seeking anticipatory bail in FIR No.100 dated 02.11.2017, under Section: 304-A, 279, 427 IPC, PS Shahpurkandi, District Pathankot.
2. Notice of the bail application was issued to the State. The

**Kulbhushan Kumar,
Additional Sessions Judge, Pathankot.
(UID No.PB-0170), Dt. 25.11.2022.**

Ld. Addl. PP for the State has not filed written reply. Record has been requisitioned and perused.

3. Learned counsel for the applicant/accused has argued that the criminal case is pending in the Court of Shri Manav, Learned CJM, Pathankot. The applicant/accused could not appear before the trial Court as he had fallen sick. The trial Court has issued non-bailable warrants against the applicant/accused vide order dated 10.10.2022. The absence of the applicant/accused was not intentional, but due to his sickness. He further argued that the applicant/accused undertakes to abide by all the terms and conditions to be imposed on him by the Court. Hence, he prayed to allow the application.

5. On the other hand, learned Addl. P.P for State opposed the contention raised by the Ld. Counsel for the applicant/accused. He further argued that the applicant/accused intentionally did not appear before the trial Court on the date fixed and remained absent and thus the trial Court has rightly issued non-bailable warrants of arrest as the applicant/accused has misused the concession of bail. Hence, he is not entitled to be released on anticipatory bail. He prayed for dismissal of the bail application.

5. After hearing rival arguments addressed by the counsel for the applicant/accused and Additional Public Prosecutor for the State and after going through the record very minutely, this Court is of the considered opinion that from the perusal of the file of Ld. Trial Court, it transpired that the challan has already been presented before the learned Trial Court and charges have also been framed against the applicant/accused. On 10.10.2022 when the case was fixed for prosecution evidence, the applicant/accused absented himself without any intimation and his bail orders stand canceled and bail bonds and surety bonds were forfeited to the State. The applicant/accused was ordered to be summoned through non-bailable warrants for 23.11.2022. During the course, the applicant/accused filed the present bail application under section 438 Cr.P.C. as he has the apprehension of his arrest before the Trial Court.

However, the offences involved in the FIR under Section 304-A, 279 IPC are bailable in nature. Hence, the present bail application filed by the applicant/accused stands dismissed, with the direction to the applicant/accused to surrender before the learned Ilaqa/Duty Magistrate, Pathankot within a period of 10 days from the date of this order. The learned Ilaqa/Duty Magistrate is also directed to decide the bail application on the same day. However, the Trial Court will be at liberty to initiate the proceedings under section 446 Cr.P.C. against the accused or surety.

7. Trial Court file along with copy of this order be sent back to the Court of Learned Ilaqa Magistrate/Duty Magistrate Pathankot for information and necessary compliance. Bail application file be consigned to the record room.

**Pronounced in the Open Court.
Dated:25.11.2022**

**(Kulbhushan Kumar)
(UID No.PB0170),
Additional Sessions Judge
Pathankot.**

* Typed by Sawtanter Kumar Stenographer-II on direct dictation on computer.