

**IN THE COURT OF MS. RANA KANWARDEEP KAUR CHAHAL,
ADDITIONAL SESSIONS JUDGE, KAPURTHALA (UID
NO.PB00223)**

CNR No. PBKP010027692024



Case No. BA/1073/2024

Presented on : 28-05-2024

Registered on : 29-05-2024

Decided on : 12-06-2024

Gurdev Singh, s/o Puran Singh, aged about 64 years, r/o Haibatpur, Tehsil Sultanpur, District Kapurthala.

....Applicant/accused

Versus

Gurpinder Singh Bajwa, s/o Pavinder Singh Bajwa, r/o Village Fauji Colony, Randhirpur, Tehsil Sultanpur Lodhi, District Kapurthala.

.....Respondent/Complainant.

Criminal Complaint under Section 138 of Negotiable
Instrument Act.

[Application for Bail U/s 438 of Cr.P.C.]

Present: Shri H.S.Dhillon, Advocate, for applicant/accused.

None for complainant.

B A I L O R D E R :-

1. File put up before me today being the Duty Officer during Summer Vacations.

Rana Kanwardeep Kaur Chahal
ASJ/Kapurthala
Dated 12.06.2024

2. This order of mine shall dispose of the application for bail under Section 438 Cr.P.C. of the applicant/accused, in a Criminal complaint case under Section 138 of Negotiable Instrument Act bearing complaint NACT-70/2021.

3. Learned counsel for the applicant/accused has submitted that present case pending for 24.05.2024. On 24.05.2023, non bailable warrants were issued against applicant as could not appear before the Court. He was not served in this case as he was suffering from Hepatitis B. His exemption application was also refused by the learned trial court. The absence of applicant was neither intentional nor willful. There is apprehension of his arrest at the hands of Police. The applicant/accused is ready to face trial and further undertakes that he will abide by all the terms and conditions to be imposed by the Court, while granting bail to him. Accordingly, under these circumstances, it has been prayed that the bail application of the applicant/accused be allowed.

4. None has appeared on behalf of complainant despite service.

5. Admittedly, the offence under Section 138 of Negotiable Instrument Act under which, the accused/applicant is seeking anticipatory bail, is bailable. In the law laid down by Hon'ble Punjab & Haryana High Court in case titled as **Manjit Singh Sandhu Vs. State of Punjab & others” reported in 2011 (3) R.C.R. (Criminal)-105**, it has been held that where the offences are bailable and non-bailable warrants of accused

are issued due to her non-appearance, anticipatory bail application is not maintainable.

6. Here, the learned counsel for the accused/applicant has relied upon the law, laid down by the Hon'ble Punjab & Haryana High Court in case titled as **Hardev Singh alias Debu Vs. State of Punjab reported in 2011 (2) RCR (Criminal)-471 (P&H)**, wherein accused was declared proclaimed offender in an offence under Sections 323 and 324 IPC which are Bailable offences and the accused sought anticipatory bail as the accused had apprehension of being sent to Jail before his bail application was considered. In that case, it was held that the apprehension of the accused is misconceived and he was directed to surrender before the Magistrate.

7. The offence in this case in which the accused/applicant is seeking anticipatory bail, is also bailable. Thus, in view of the aforesaid law, laid down by our own Hon'ble High Court, the present application for anticipatory bail is hereby disposed off being not maintainable, as the offence is bailable. However, the accused/applicant is directed to surrender before the learned Trial Court/Duty Magistrate, Sultanpur Lodhi within 15 days from the date of this order where he shall move an application for bail appraising the facts and circumstances and the learned court of Trial Court/Duty Magistrate will consider the said bail application and decide the said application on the same day itself. Copy

of this order be sent to the learned Trial Court for information and compliance. Record of this bail application be consigned to the record room through concerned court.

Pronounced on:
Dated:12.06.2024

Kaushal

(Rana Kanwardeep Kaur Chahal)
Additional Sessions Judge,Kapurthala
(UID No. PB00223)

Rana Kanwardeep Kaur Chahal
ASJ/Kapurthala
Dated 12.06.2024

CIS No.	BA/1073/2024
CNR No.	PBKP010027692024

Present: Shri H.S.Dhillon, Advocate, for applicant/accused.
 None for complainant.

File put up before me today being the Duty Officer during
Summer Vacations.

Arguments heard. Vide my separate detailed order of even
date, the bail application filed by applicant/accused disposed off being not
maintainable, as stated therein. Copy of this order be sent to the learned
Trial Court for information and compliance. Record of this bail
application be consigned to the record room through concerned court.

Pronounced on:
Dated:12.06.2024

Kaushal

(Rana Kanwardeep Kaur Chahal)
Additional Sessions Judge,Kapurthala
(UID No. PB00223)

Rana Kanwardeep Kaur Chahal
ASJ/Kapurthala
Dated 12.06.2024