

Raj Kumar v. Amit Kumar

Present: Accused with Sh. GS Dandiwal, advocate.

Accused surrendered before this court. File summoned from record room as accused has been declared proclaimed offender vide order dated 13.05.2023 passed by undersigned. Accordingly, ahlmad is directed to get restore the file at its original number. Sh. GS Dandiwal, advocate moved an application for bail. As the offence u/s 138 of NI Act is bailable, therefore accused is directed to furnish bail bonds and surety bonds to the tune of Rs.40,000/-. Surety bonds furnished. Same are accepted and attested.

Heard. Notice of accusation under Section 138 of NI Act has been served upon the accused to which the accused pleaded not guilty and claimed trial. In view of procedure laid down by Hon'ble Supreme Court of India in judgment of **Indian Bank Association and others Vs. Union of India and others 2014(2) RCR (Criminal) 598** wherein it has been held that in a case under Section 138 of Negotiable Instrument Act complainant is not required to examine himself twice i.e. one after filing complaint and one after summoning of accused. As the accused has moved the application for cross examination of the complainant and in view of the averments mentioned in the application, this court is of the view that there are substances in the present complaint to try the same as summons case. There is no necessity to recall and re-examine complainant after summoning of accused, unless the Magistrate passes specific order as to why the complainant is to be recalled. Accordingly, case is adjourned for the same and complaint will be tried as a summons case. Now case is adjourned to 02.11.2023 for complainant evidence.

Date of Order: 12.09.2023
Harjinder Kaur St.Gr.III

(Rajbir Kaur)
Judicial Magistrate Ist Class
UID NO . PB00496