

Girish Sachdeva Vs. State of Punjab.

**IN THE COURT OF P.S. KALEKA,
ADDITIONAL SESSIONS JUDGE, HOSHIARPUR.
(UID NO.PB-0253).**

CIS No. BA-358-2026
CNR No:PBHO010010302026
Decided on: 07.02.2026

Girish Sachdeva aged about 40 years son of Shri Baldev Raj Sachdeva,
resident of 323-C, Kirti Nagar, Ferozpur City.

....Applicant

Versus

State of Punjab

....Respondent.

FIR No. 39 dated 03.04.2020
U/S 188, 268, 271 IPC and Section 54, 80AA
of Excise Act, Police Station Sadar,
Hoshiarpur.

**FIRST APPLICATION FOR ANTICIPATORY BAIL OF APPLICANT/
ACCUSED i.e. GIRISH SACHDEVA.**

Present: Ms. Harjit Kaur, Advocate for bail-applicant.
Shri Rahul Dadhwal, Addl. PP for the State.

ORDER:

This order of mine shall dispose of anticipatory bail application
filed by applicant Girish Sachdeva in the abovesaid FIR. Trial Court record

has been requisitioned. The same is received and perused.

2. Notice of bail application was issued to the State through Learned Additional Public Prosecutor of the State, who put in appearance. He hadn't filed any reply to the bail application rather submitted that he will orally argue the matter.

3. Concerned Ahlmad has reported that no other bail application in the present case is pending in the Hon'ble High Court.

4. The learned counsel for the accused/applicant has vehemently contended that the case titled as State Vs. Girish Sachdeva is pending in the Court of Shri Suresh Kumar Goyal, Ld. Addl. Chief Judicial Magistrate, Hoshiarpur. Since the inception of this case no witness has been examined, so much so that the charge has not been framed as some supplementary challan is to be produced, as per the request of Public Prosecutor made on the earlier dates. The applicant/accused has to come from far of place i.e. Ferozepur, where he is permanent resident and at the time of alleged offence he was having some business claims at Hoshiarpur. The applicant/accused used to appear regularly despite the fact that no material proceedings are done on any of the dates and on some of dates the applicant/accused even moved an application for exemption for personal appearance. The applicant/accused inadvertently could not note the date i.e. last date of hearing as 20.12.2025 and remained in impression that long dates are being given in this case because of presentation of some supplementary challan and only came to know in first

week of February that his warrants have been issued on account of his absence by the Ld. Trial Court although the case was fixed for awaiting some official sanction to prosecute applicant/accused. The absence of applicant/accused was neither willful nor intentional but on account of non recording of date correctly. The applicant/accused apprehends that he will be arrested in case he surrenders without bail before the Illaqa Magistrate. The applicant/accused undertake not to miss the date in future ever. The applicant/accused is ready to appear before the Ld. Trial Court and further join proceedings in the present case and undertakes not to abscond or jump the bail as he wants to contest the case which is totally a false case. The accused/applicant undertakes to abide by the terms and conditions as imposed by the Court and lastly, prayer has been made for acceptance of application in hand.

5. On the other hand, the learned Addl. P.P. for the State has opposed the bail application on the ground of gravity and maintainability and argued that the accused has mis-used the concession of bail as he remained absent from the trial. He has to surrender before the learned Trial Court and lastly prayed for dismissal of the application.

6. I have heard the Learned Additional Public Prosecutor for State and Learned Counsel for bail-applicant and have gone through the record carefully.

7. Perusal of the file shows that matter in hand is a case of FIR No.39 dated 3.4.2020, under Sections 188, 268, 271 IPC and Section 54,

80AA of Excise Act, Police Station Sadar, Hoshiarpur, registered against the applicant/accused by name alongwith other co-accused. Accused/applicant absented himself from the proceedings of the case on 20.12.2025 and on the same day the learned Trial Court has canceled the bail orders and bail/surety bonds are forfeited to the State and non-bailable warrants were ordered to be issued. Now the accused/applicant himself moved the present application that he is ready to join the proceedings before the learned Trial Court. Admittedly the applicant/accused has mis-used the concession of bail and absented himself from the proceedings of the case without intimation to the Court.

8. At the very outset of the deliberations, the Court refer to the legal benchmark which would govern the sustainability of the application at hand. The Hon'ble Supreme Court of India in **Manish Jain v. Haryana State Pollution Board 2020 SCC OnLine SC 1101** held that when an accused is on bail, he is in a way in constructive custody and if the law requires him to surrender or to take him back in custody, it cannot be said that there is apprehension of his arrest on account of accusation as he is deemed to be in constructive custody already and that in such circumstances provisions of Section 438 Cr.P.C., 1973 cannot be availed of. Further, the Hon'ble Punjab and Haryana High Court in **Pawan Kumar Vs. State of Haryana and another bearing CRM-M-39172-2021 (O&M), date of decision 21.09.2021** had reiterated the same view while holding that application for anticipatory bail was not maintainable in the forgoing circumstances.

9. If evaluated from the lens of the foregoing judgments, it becomes patent that the application at hand is not maintainable since the accused had already been granted regular bail and the law requires him to come back to custody. As such the application, for the reasons mentioned hereinbefore, is held to be not maintainable.

10. However, in case the accused surrenders in the Trial Court on or before 17.02.2026 and file the appropriate application, the same shall be considered on its own merits, preferably on the same day and the learned Trial Court shall objectively consider the grounds/reasons put-forth by the accused /applicant explaining his absence in the Court proceedings.

11. However, this order shall have no bearing on proceedings, if any, initiated against the bail applicant/accused and his surety under Section 446 of Code of Criminal Procedure or if the Ld. Trial Court consider penalizing/proceeding the accused under section 446 of Cr.P.C. Copy of this order be sent to the court concerned for compliance. Trial Court record be returned immediately. This file be consigned to record room.

Pronounced in open Court:
Dated: 07.02.2026
Anil, Stenographer

(P.S. Kaleka),
Additional Sessions Judge,
Hoshiarpur/(UID No.PB-0253).

Present: Ms. Harjit Kaur, Advocate for bail-applicant.
Shri Rahul Dadhwal, Addl. PP for the State.

Report of Ahlmad received and perused. Arguments heard. Vide separate detailed order of the even date, the bail application in hands stands disposed of as detailed therein. Trial Court record be returned immediately. This file be consigned to record room.

Pronounced in open Court:
Dated: 07.02.2026
Anil, Stenographer

(P.S. Kaleka),
Additional Sessions Judge,
Hoshiarpur/(UID No.PB-0253).