

IN THE COURT OF KANWALJIT SINGH BAJWA,
SESSIONS JUDGE,
SHAHEED BHAGAT SINGH NAGAR.
(UID No.PB-0059)

PBSB010006462023



B.A. No. : 86/2023
CIS No. : BA/191/2023
CNR No. : PBSB0100-0646-2023
Presented on : 15.02.2023
Registered on : 15.02.2023
Date of Decision : 17.02.2023

Tara Singh, aged 61 years, son of Amar Singh, resident of VPO Sheikhpur Bagh, Tehsil Nawanshahr, District Shaheed Bhagat Singh Nagar, presently residing at 24-E, Industrial Area, Focal Point, Banga Road, Nawanshahr, District SBS Nagar.

...Applicant

Versus

State of Punjab

.....Respondent

(COMPLAINT UNDER SECTION 138 OF NEGOTIABLE INSTRUMENTS ACTS).

Bail application under Section 438 Cr.P.C.

Present: Sh.H.L.Moom, Advocate for accused/applicant.
Sh.Varinder Kumar, Addl. Public Prosecutor for the State.

ORDER

Accused/applicant Tara Singh son of Amar Singh, resident of VPO Sheikhpur Bagh, Tehsil Nawanshahr, District Shaheed Bhagat Singh Nagar, presently residing at 24-E, Industrial Area, Focal Point, Banga Road, Nawanshahr, District SBS Nagar has sought pre-arrest bail under Section 438 Cr.P.C. in the aforesaid FIR.

2. It has been contended by learned counsel for the applicant/

(Kanwaljit Singh Bajwa)
Sessions Judge, SBS Nagar.
(UID No.PB-0059)

accused that above said case was decided by the Court of learned SDJM, Balachaur vide order dated 25.01.2023. The applicant could not appear before the Court on 25.01.2023 and he was declared proclaimed offender. The applicant was never served with any notice or summons issued by the court. Applicant is not resident of the address as mentioned by the complainant in the complaint. Applicant came to know about pendency of complaint under Section 138 of Negotiable Instruments Act two days prior to filing of present application.

3. It has been argued by learned counsel for accused/applicant that applicant/accused could not appear before the Trial Court as he was never served with any notice or summons issued by the court. Applicant is not resident of the address as mentioned by the complainant in the complaint.

4. On the other hand, it was contended by learned Addl. Public Prosecutor for the State that the accused/applicant has willfully absconded from the proceedings. He has been declared proclaimed offender by the Trial Court. As such the accused/applicant is not entitled to be released on bail.

5. I have considered the aforesaid contentions raised by learned counsel for the accused/applicant as well as learned Addl. Public Prosecutor for the State and have also gone through the record.

6. Complainant Naveen Kaushal filed a complaint under Section 138 of Negotiable Instrument Act against applicant/accused in which when applicant/accused did not appear before the court despite issuance of summons and warrants, he was declared proclaimed person vide order dated

25.01.2023 passed by the Court of the learned Sub-Divisional Judicial Magistrate, Balachaur.

7. The applicant/accused failed to cite any solid reason for absconding from the Court for such a long time as he was declared as proclaimed offender. There is no challenge made to the order dated 25.01.2023 declaring the applicant as proclaimed offender.

8. In case titled as **Parminder Singh Garcha Vs. State of Punjab 2003(4) RCR (Criminal), Page 745 (Punjab & Haryana)**, the Hon'ble High Court had observed that when the accused are absconding, then there is no question of granting anticipatory or regular bail while relying upon the law laid down by **Hon'ble Apex Court in SLP (Criminal) No.1403/2002 of 02.09.2002.**

9. Accordingly, in the considered opinion of this Court, the accused/applicant does not deserve any concession of bail in the present bail matter and same stands dismissed. Bail application file, complete in all respects, be consigned to the record room.

Pronounced in open Court.

Dated: 17.02.2023.

Joshi-Stenographer-Gr.I

(KANWALJIT SINGH BAJWA),

Sessions Judge,

Shaheed Bhagat Singh Nagar.

(UID no.PB0059)

(Kanwaljit Singh Bajwa)
Sessions Judge, SBS Nagar.
(UID No.PB-0059)

Present: Sh.H.L.Moom, Advocate for accused/applicant.

Sh.Varinder Kumar, Addl. Public Prosecutor for the State.

Arguments heard. Vide my separate detailed order of even date,
the bail application has been dismissed. Record be returned and file of this
Court be consigned to Record Room.

Pronounced in open Court.

Dated: 17.02.2023.

Joshi-Stenographer-Gr.I

(KANWALJIT SINGH BAJWA),

Sessions Judge,

Shaheed Bhagat Singh Nagar.

(UID no.PB0059)

(Kanwaljit Singh Bajwa)
Sessions Judge, SBS Nagar.
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