

**IN THE COURT OF RAMAN KUMAR, ADDITIONAL SESSIONS
JUDGE, KAPURTHALA**

CNR No.PBKP01004438-2019
Bail application No.1569 of 03.09.2019
Date of order 01.10.2019

Mohammad Kari, age 58 years, son of Mohammad Bachan, resident of H.No.701-702-B, New Adarsh Nagar, Phagwara, District Kapurthala.

..... Applicant/Accused

Versus

Jaspreet Singh, son of Piara Singh, resident of New Hargobind Nagar, Phagwara District Kapurthala.

.....Complainant/Respondent.

Bail application under Section 438 CrPC.

Present: Sh.Lokesh Narang Advocate for the applicant/accused.

ORDER

1. Trial Court record has been received. Arguments have been heard. Prayer in the present petition is for grant of anticipatory bail to applicant Mohammad Kari against whom complaint was filed for having committed an offence punishable under Section 138 of the Negotiable Instrument Act, 1881, bearing case No.696 of 16.10.2015, titled as Jaspreet Singh Versus Mohammad Kari.

2. Concededly, the applicant-accused had never appeared before the trial court in that complaint. However, the procedure to procure his presence has ultimately reached at the stage to declare him proclaimed person as is evident from the order dated 02.07.2019, passed in that complaint.

3. The offence punishable under Section 138 of the Negotiable Instruments Act, 1881 is bailable. Therefore, the offence is still bailable

for the applicant-accused as he never appeared before the Trial Court in that complaint. Had he ever appeared before the Ld.Trial Court and thereafter absented after grant bail, then the offence would have become non bailable for him.

4. Therefore, in view of these facts and circumstances and in light of settled proposition of law as held in 2014 (2) Law Herald 1275 (P&H) titled as Tarun Kumar Versus Raj Kumar, the anticipatory bail is not maintainable as the offence remained bailable, though accused may have been declared proclaimed person, but he never appeared before the Trial Court.

5. With these observations the anticipatory bail application under reference is hereby declined being not maintainable. Therefore, the petitioner is at liberty to appear before the Ld.Trial Court as the offence against him for this complaint is still bailable. Trial Court record alongwith copy of this order be returned to the concerned quarter. Bail application filed be consigned to the record-room.

Pronounced in open court
Dated: 01.10.2019
(Munish)

(Raman Kumar)
UID PB0183
Additional Sessions Judge,
Kapurthala