

**In the court of Kewal Krishan,
Addl. Sessions Judge, Ferozepur (UID No.PB-0182).**

Case Type	Bail Application.
CIS No.	BA/1612/2023.
CNR No.	PBFZ010043182023.
Date of order	07.07.2023.

Gurjatinderpal Singh aged 49 years son of Darshan Singh, resident of village Lubhaniya Wali, Tehsil and District Sri Muktsar Sahib.

.....Applicant-accused.

Versus

Gurnam Singh son of Kartar Singh, resident of village Malwal Qadim, Tehsil and District Ferozepur.

.....Respondent/complainant.

First application 438(i) of the Code of Criminal Procedure in complaint under Section 138 of the Negotiable Instruments Act titled as "Gurnam Singh Vs Gurjatinderpal Singh"

Present: Ms. Amandeep Kaur Sidhu Advocate, counsel for the applicant.

Ms. Teena Addl. Public Prosecutor for the State.

ORDER

Bail application received by entrustment. It be checked and registered. Apprehending his arrest, the applicant has filed the instant application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail. Trial court record is received.

2. Arguments are heard. Learned counsel for the applicant has argued that the complainant/respondent has filed a false complaint under Section 138/142 of Negotiable Instrument Act against the applicant, who never received any summons, bailable warrants or non-bailable warrants in this case. The trial court has wrongly and illegally issued proclamation under Section 82 Cr.P.C. and later on declared him as proclaimed person. The applicant is ready to join the proceedings in the complaint. He undertakes to appear on each and every date in the court and will not leave the Country without permission of the Court. Thus, the applicant may kindly be granted anticipatory bail.

3. This Court has heard the learned counsel for the applicant and has gone through the record carefully. The respondent/complainant filed the complaint U/s 138 of Negotiable Instrument Act relating to cheque of Rs.1,25,000/- and the applicant/accused was summoned for this offence vide order dated 08.05.2019. Summons were sent through registered cover for 24.01.2020, which was not received back. The trial court presumed that the accused was duly served and ordered to summon him through non-bailable warrants of arrest for 25.03.2020. Thereafter, due to outbreak of Covid-19, the case remained adjourned for various dates. On 26.02.2021, fresh non-bailable warrants against the accused were ordered to be issued

for 01.06.2021 and then for 21.12.2021, 05.04.2022 and 02.08.2022, which were received back unexecuted. The trial court formed an opinion that the accused has absconded or is concealing himself. Consequently, the accused was ordered to be summoned through proclamation under Section 82 Cr.P.C. and ultimately, vide order dated 20.10.2022, he was declared as proclaimed person and file was ordered to be consigned to record room.

4. The applicant/accused was never served personally. The offence under Section 138 of Negotiable Instruments Act is bailable and the applicant is at liberty to appear before the trial court and furnish the bail/surety bonds by seeking bail order. The application for anticipatory bail filed by applicant-accused relating to bailable offence is not maintainable and the stands dismissed accordingly. The applicant is directed to surrender before learned Trial Court within 15 days. If the applicant surrenders and files the application for regular bail, the same shall be decided by the trial court in accordance with law on the same day.

5. Trial Court record along with copy of this order be returned. File of this application be consigned to Record Room, Ferozepur.

Pronounced on 07.07.2023.
Anil Kumar Stenographer Gr.II.

sd/-
(Kewal Krishan)
Addl. Sessions Judge, Ferozepur.
(UID No.PB 0182)