

**In the Court of Sanjay Agnihotri,
Additional Sessions Judge-I,
Kapurthala
(UID No.PB0099)**

CNR No. PBKP010004782024

Case No. BA/199/2024



Presented on : 25-01-2024

Registered on : 29-01-2024

Decided on : 02-02-2024

Sandeep Kaur, aged about 39 years wife of Santokh Singh, r/o village Subhana, Mithapur, Jalandhar.

....Accused/applicant

Versus

S. Lakhbir Singh son of Kulwant Singh, r/o Indra Nagar, Phagwara, District Kapurthala.

...Complainant/respondent

Complaint under section 138 of N.I. Act.

First Application for bail under Section 438 Cr.P.C.

Present: Shri Sunny Kumar Advocate, for applicant/accused.
Ms. Reena Rani, Ld. Addl. P.P. for the respondent/State
assisted by Sh. Gurdeep Sanger, Advocate for the
complainant.

ORDER:

1. Present anticipatory bail application under section 438 Cr.P.C. has been filed by the applicant/accused **Sandeep Kaur wife of Santokh Singh, r/o village Subhana, Mithapur, Jalandhar, Under Section 138 of Negotiable Instruments Act.** Notice of the bail application was issued to the respondent and learned Additional Public Prosecutor for the State/respondent has contested the bail application. Record has been requisitioned and received.

2. It has been averred in the anticipatory bail application that she was regularly appearing before the learned trial court in a case instituted otherwise than on a police report under section 138 of Negotiable Instrument Act. However, she failed to appear on 25.10.2023 as she noted down a wrong date. Consequently, his bail order was cancelled and bail bonds and surety bonds were also cancelled and forfeited to the State of Punjab. However, she is ready to abide by all the terms and conditions, if any, of bail.

3. Arguments heard and record perused with the able assistance of learned counsel for the applicants/accused and Addl. Public Prosecutor for State assisted by learned counsel for the complainant.

4. The Hon'ble Punjab & Haryana High Court in a latest judgment passed in CRM-M-39172-2021 decided on 21.09.2021 titled as Pawan Kumar Vs. State of Haryana and another has held that, "this Court finds that it is only when there is an apprehension of his arrest of an accused upon an accusation having been made i.e. upon institution of FIR or lodging of complaint or otherwise having been summoned by the Court for the first time to face trial that a person may approach the Courts under provisions of section 438 Cr.P.C. seeking grant of anticipatory bail. The scope of 438 Cr.P.C. cannot be extended to cases where such apprehension of arrest is on account of jumping bail. It has also been observed by the Hon'ble High Court that this Court cannot lose sight of the fact that there would be certain cases where an accused is unable to appear before the trial Court on account of genuine reasons, say-on account of having noted the date incorrectly or on account of certain reasons which are beyond his control. In such cases, the accused can

surrender before the trial Court and it is expected that the trial Courts would take a lenient view in genuine cases and decide the regular bail applications expeditiously. In a given set of circumstances where the trial Court is satisfied that there were valid reasons for the absence of an accused and that he has surrendered at the shortest possible time, the trial Court can in fact dispose of the regular bail application on the very day the same is presented by accused upon his surrender. The trial Court, in its discretion, may also chose to grant interim bail, in fit cases, but only after surrender of accused. The petition stands disposed off accordingly.”

5. As per record, applicant was on bail and had been appearing during the proceedings of the case, but she failed to appear on 25.10.2023 as a result of which, his bail order was cancelled. It means that the accused has jumped the bail and violated the terms and conditions of bail already granted to him.

6. In view of above, the benefit of anticipatory bail cannot be extended to her as she has been apprehending her arrest on account of jumping bail. As such, this Court does not deem it fit to grant the concession of pre-arrest bail to accused/applicant Sandeep Kaur and the bail application is dismissed. Trial Court record alongwith copy of this order be sent back to the learned trial Court. Bail application file be consigned to Judicial Record Room.

Pronounced in open Court:-
Dated: 02.02.2024.

Sumant STG-II

(Sanjay Agnihotri),
Additional Sessions Judge,
Kapurthala.(UID No.PB0099)

Sandeep Kaur Vs. Lakhbir Singh

CNR No.PBKP010004782024
Bail application No.199 of 29.01.2024

Present: Shri Sunny Kumar Advocate, for applicant/accused.
Ms. Reena Rani, Ld. Addl. P.P. for the respondent/State
assisted by Sh. Gurdeep Sanger, Advocate for the
complainant.

Lower Court file perused. Arguments heard. Vide my
separate and detailed order of even date, the present bail application
filed by applicant/accused Sandeep Kaur has been dismissed. Bail
application file be consigned to the Judicial Record Room.

Pronounced in open Court:-
Dated: 02.02.2024.

Sumant STG-II

(Sanjay Agnihotri),
Additional Sessions Judge,
Kapurthala.(UID No.PB0099)