

S.No.104

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-11243 of 2019 (O&M)

Date of Decision:12.03.2019

James Gill

.....Petitioner

Vs.

The Gurdaspur Central Co-operative Bak

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Ritesh Pandey, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

This is a petition filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case Criminal Complaint No.97 dated 16.09.2016 titled as “The Gurdaspur Central Co-operative Bank, Batala Branch, Tehsil and District Gurdaspur through Sh. Harwant Singh, Officer/Authorized Representative of the complainant- Bank v. Jamesh Gill” under Section 138 of NI Act.

Keeping in view the nature of the order this Court is going to pass hence further, as well as the facts and circumstances of this case, this Court does not find it necessary to issue any notice to the respondent. The case can be decided without any notice at this stage.

Counsel for the petitioner submits that the petitioner has been wrongly declared as a proclaimed offender. The petitioner has never received any notice, summons or warrants from the Court before the order declaring him a proclaimed offender was passed. It is further contended that the procedure prescribed under Section 82 Cr.P.C has not been followed before declaring the petitioner as a proclaimed offender. The serving Constable has misled the Court by submitting a false service record,

if at all, there so exists. However, since the petitioner has now come to know of the proceedings pending against him, therefore, he intends to appear before the trial Court to face the further proceedings in accordance with law. The petitioner does not have any intention to flee from course of justice. The only prayer is that the petitioner be protected against his arrest.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, the present petition is allowed subject to the petitioner appearing before the trial Court on or before 21.03.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 21.03.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

March 12, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No