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

**CRM-M-33023-2026
Date of decision: 08.06.2026**

ARWINDER PAL SINGH

....Petitioner

Versus

S.K. FINANCE LTD.

...Respondent

CORAM: HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr. Dinesh Sharma, Advocate
for the petitioner.

ROHIT KAPOOR, J. (Oral)

The instant petition has been filed by the petitioner under section 482 the Bharatiya Nagrik Suraksha Sanhit, 2023 (earlier section 438 CrPC) seeking the relief of pre-arrest bail in case NACT/5426/2023 pertaining to proceedings under section 138 of the Negotiable Instruments Act, 1881, which is pending before the learned Judicial Magistrate First Class, Bathinda,. Further prayer has been made for setting aside the order dated 17.03.2026 (Annexure P-3), whereby the bail bonds and surety bonds furnished by the petitioner were cancelled and forfeited and non-bailable warrants were issued, and the order dated 07.04.2026 (Annexure P-4) whereby his earlier bail order was cancelled due to his continued absence.

2. It transpires that the petitioner approached the Court of learned Additional Sessions Judge, Bathinda seeking the relief of pre-arrest bail and had had laid challenge to the afore-mentioned orders. The said application was dismissed keeping in view the principles laid down by the Hon'ble Supreme



Court in *Manish Jain vs. Haryana State Pollution Board, 2020 SCC Online SC 1101*, wherein it was *inter alia* observed that a person released on bail is already in the constructive custody of law. If the law requires him to come back to custody for specified reasons, then an application for anticipatory bail apprehending arrest will not lie. There cannot be an apprehension of arrest by a person already in the constructive custody of law.

3. Keeping in view the aforesaid settled position of law, the application for anticipatory bail was dismissed by the learned Sessions Judge. However, indulgence was granted to the extent that the applicant was allowed to surrender before the learned trial Court on or anytime before the next date fixed before it, and in such event, it was directed that the bail application so moved by him shall be decided on the same day, subject to the condition that he deposits Rs.5,000/- as costs for the delay occasioned by his absence. It was further observed that in case of failure to comply with the aforesaid direction, the trial Court would be at liberty to adjourn such bail application of the applicant as per its docket. It is in this backdrop that the present petition has been filed.

4. Learned counsel for the petitioner contends that the petitioner is a poor person who is working as a taxi driver and could not appear in the matter, due to the nature of his work. It is further contended that the petitioner is not involved in any other such or similar case, nor has been declared as a proclaimed offender in any other matter. Learned counsel has submitted that the Court of Sessions has rejected the plea of the petitioner without appreciating the facts of the case. It is urged that the petitioner undertakes to abide by the conditions that may be imposed by this Court while granting the concession of pre-arrest bail.

5. On a pointed query of the Court, as regards maintainability of the



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instant petition, in view of the law laid down by the Hon'ble Supreme Court in the case of **Manish Jain** (supra), learned counsel for the petitioner has failed to give any response.

6. I have considered the aforesaid submissions.

7. At the outset it may be noticed that perusal of the averments made in the petition would show that no explanation whatsoever has been given for the failure of the petitioner to appear before the learned trial Court, despite a specific opportunity granted by the Additional Sessions Judge, Bathinda vide order dated 16.04.2026.

8. This Court is constrained to observe that rather than complying with the order dated 16.04.2026, the petitioner has chosen to file the instant petition, which is *ex facie* not maintainable, in view of the observations made by the Hon'ble Supreme Court in the case of **Manish Jain** (supra).

9. A perusal of the provisions of section 482 BNSS shows that it is only upon an apprehension of arrest, consequent upon initiation of some criminal proceedings that the said provisions can be invoked. Section 482 BNSS reads as under:-

“(1) (1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under subsection (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including---

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any



police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should be issued in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under section 65 and sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.”

10. The words “*reason to believe that he may be arrested on an accusation of having committed a non-bailable offence*” as exist in section 482 BNSS are very significant and show that it is only when a person apprehends his arrest pursuant to an accusation having been made regarding commission of non-bailable offence that the provisions of section 482 BNSS may be availed of. In the instant case, the accusation against the petitioner was made when the complaint came to be instituted and not when the petitioner jumped bail or when the arrest warrants were issued on account of his absence.

11. In view of the aforesaid discussion, this Court finds that it is only when there is an apprehension of arrest upon an accused 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 the provisions of section 482 BNSS seeking grant of anticipatory bail. The scope of section 482 BNSS cannot be extended to cases where such apprehension of arrest is on account of jumping bail.



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12. In view of the above discussion, the instant petition is found to be bereft of any merit and is hereby dismissed.

13. It is however observed that the order passed in the present petition shall not have any bearing upon the discretion of the trial Court, to grant regular bail, in the event the petitioner chooses to surrender before it.

08.06.2026
mohit goyal

(ROHIT KAPOOR)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No