

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

CRM-M-12080-2021(O&M)

Date of decision:-19.4.2021

Sanjay and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.APS Deol, Sr.Advocate with
Mr.Vishal Rattan Lamba, Advocate
for the petitioners.

Mr.Saurabh Girdhar, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioners Sanjay aged about 37 years, Dharmender aged about 42 years and Lalit, aged about 28 years, all of them being accused in FIR No.30 dated 11.2.2021, under Sections 353, 186, 379-A, 506 and 34 IPC, registered with Police Station Kasola, District Rewari.

Briefly stated, the facts of the case as per the prosecution story are that criminal machinery in this case was set into motion by complainant Constable Sunil Kumar – 1265/KNL son of Sh.Krishan Lal, resident of village Faral, District Kaithal, P.S. Pundri, posted in RTA Staff, Rewari, who in the written complaint submitted by him to SHO P.S. Kasola, Rewari stated that on the intervening night of 10/11.2.2021, he

was member of the team, which was conducting checking of overloading in vehicles on NH-8 near Bhudla Fly Over; TSI Jasbir Singh and SI Naresh Kumar were sitting in Government vehicle No.HR-01AS-0011 make Bolero with Narender Kumar as its driver, whereas RTO was in another vehicle; they spotted HYWA vehicle coming from Jaipur side; it was stopped and on being checked, it was found to be overloaded by 36590 kgs.; RTO staff made complainant sit in that vehicle to impound it; the complainant was accordingly taking the vehicle to Yashika parking, Kasola Chowk through service road when vehicle HR-26DG-6565 came from behind; 3-4 persons alighted therefrom and they stopped HYWA vehicle, opened the window and assaulted the complainant, misbehaving with him, in the process the complainant fell on the ground; such persons tried to tear of uniform of complainant and took HYWA vehicle towards Dharuhera side; in the meanwhile the staff vehicle reached there. In the written complaint, complainant stated that such persons had obstructed him from performing his official duty, gave him abuses and life threats, as such action be taken against them. On receipt of that complaint, formal FIR in the matter was recorded. The investigation in the case started. The petitioners were nominated as the culprits.

Apprehending their arrest, the petitioners had approached the Court of Sessions at Rewari by moving an application for pre-arrest bail, which was assigned to Additional Sessions Judge, Rewari, however, their such application was dismissed by the said Court vide detailed order dated 8.3.2021. As such, the present petitioners have approached this Court by way of filing the instant petition asking for the similar relief, which

request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the records.

Learned counsel for the petitioner has contended that co-accused of the petitioners namely Subhash, who had been arrested in this case has since been granted regular bail by the Court of Sessions vide order dated 2.3.2021 and putting the petitioners behind bars would not serve any purpose especially when they do not have any past criminal record. He has further contended that no offence against the petitioners is disclosed; as a matter of fact at best it was a case of exchange of hot words; the complainant has not suffered any injury; there is delay in lodging of the FIR and petitioners are not named therein, therefore, they be granted pre-arrest bail.

On the other hand, learned State counsel has vehemently opposed the petition.

As far as the contention of learned counsel for the petitioners that co-accused of the petitioner has been granted regular bail, that does not help the present petitioners since the yardstick used for grant of regular bail is quite different from one which is applicable for grant of pre arrest bail. Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

As far as delay in lodging of the FIR, the law is well settled that delay alone is not fatal to a criminal case, if reasonable explanation is

there for the same. Even otherwise, such like pleas of delay in lodging of the FIR; being not named in the FIR, whether the offence for which the accused are booked are to be made out or not etc. are to be looked into by the trial Court and not by this Court while deciding question whether anticipatory bail is to be granted to the petitioners or not. Prima facie from the record the serious offences are disclosed against the petitioners, which by themselves do not warrant grant of relief of pre-arrest bail. The allegations against the petitioners are very serious and grave of assaulting a public servant on duty obstructing him from discharging his such duties, which acts are required to be taken with all the seriousness. Such type of conduct cannot be taken lightly since if culprits indulging in assaulting public servants on duty are dealt with leniency, then the public servants would get demoralized and disheartened, in the process affecting their efficiency and devotion to the duty sending a wrong signal in the society that one can use force against the public servants and get away very easily.

It needs to be mentioned here that there is nothing on record to show that there was any previous enmity between the complainant and the petitioners/accused prompted by which the former might have involved the petitioners in this case falsely to settle some score. Thus at this stage, it cannot be said that accusations have been made by the complainant against the petitioners/accused with object of injuring or humiliating them by getting them arrested. There could be reasonable possibility of petitioners trying to tamper with the prosecution evidence or threatening the complainant, if the relief of pre-arrest bail is granted to

them.

Furthermore, the custodial interrogation of the petitioners/accused is required for complete and effective investigation to find out the factual position. In case custodial interrogation of the petitioners is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Therefore, taking the things from all the angles, no case for grant of pre-arrest bail to the petitioners is made out. The petition is doomed for failure and is dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

19.4.2021

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(H.S.MADAAN)

JUDGE