

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

CRM-M-28116-2021  
Date of decision:-5.8.2021

Mohd. Aasim

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Talim Hussain, Advocate  
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

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**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 petitioner – Mohd. Aasim, aged about 27 years, resident of Ward No.1, Hamid Colony, Nuh, an accused in FIR No.196 dated 4.5.2021, under Sections 148, 149, 341, 283, 332, 353, 307, 186, 188, 269, 270, 506 IPC and 51 of Disaster Management Act, 2005, registered with Police Station Sadar, Nuh.

Briefly stated, the facts of the case as per the prosecution story are that on 4.5.2021, Mr.Akhtar Hussain, Naib Tehsildar, Nuh submitted a written complaint along with MLR of Constable Anand to the police. *Inter alia* in the written complaint, the complainant contended that on 3.5.2021 at around 10:30 p.m. in compliance with the Government orders, some ventilators were to be transported from SHKMC and Hospital, Nalhar to Palwal Hospital for treatment of Corona patients; while complainant along with other officials were engaged in that job; some local persons interrupted them from doing so saying that the ventilators belong to them and they would not allow Naib Tehsildar, Nuh or any other official to remove those ventilators; those people turned violent; the complainant had called the police at the spot for assistance; the police tried to persuade and convince the people but to no effect; when the complainant and other officials began transporting the ventilators, then several people gathered and blocked the main gate of the hospital and began vandalizing and stone pelting on the complainant and other officials; some police officials were injured in the incident; the police had to fire tear gas shells to protect common people and patients; the police had to fire blank in the air also, only then the people started retreating; however, some of the mischief mongers were apprehended, which included Faijal son of Jaan Mohd., Sameer son of Juber, Barkat son of Jaakir, Iftikhar son of Naseer Ahmed, Raashid son of Ismaail, Arshad son of Islamuddin, Shahid son of Taaj Mohd. Kayamdeed son of Sher Khan, Shakir sonof Muse Khan, Shareef son of Jaakir whereas 50-60 persons managed to escape. On the basis of the written complaint, formal FIR was

registered. Several accused were arrested in this case. Iron rods used in the incident were recovered. The arrested accused on being interrogated disclosed that present petitioner - Mohd. Aasim son of Mohd. Qasim, resident of Baded Punhana, currently residing at Ward No.1, Nuh City, along with Irfan and several other people had attacked the police party and shared provocative messages to gather the crowd; thereafter they snatched Rs.1,700/- from the pocket of uniform of Constable Anand.

After being nominated in this case, apprehending his arrest, the present petitioner had approached the Court of Sessions at Mewat by filing an application for grant of pre-arrest bail. His such application, which was assigned to Additional Sessions Judge, Mewat was dismissed vide order dated 6.7.2021. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief, which request is being resisted by the State counsel.

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

Though the petitioner is not named in the FIR but that by itself does not result in grant of any benefit to him.

The FIR is not a substantive piece of evidence and its only purpose is to set the criminal machinery in motion. FIR is often lodged in hurry and it may not contain the minute and precise details of the incident. The FIR can be got registered by a person, who may not be an eye-witness of the same. It is only during investigation of the case that police can come to know about the culprit and criminal, who had committed the crime. Merely for the reason that accused is not named in the FIR does not

result in causing any dent in the prosecution story.

As submitted by learned State counsel, the petitioner was named by his co-accused during their interrogation by the police and petitioner was the main culprit, who had collected the mob at the spot through WhatsApp chat.

Learned trial Court has dealt with all the pleas raised by counsel for the petitioner and I do not see any reason to disagree with the same. The operative para of the order in that regard for ready reference is being reproduced as under:

*7. The allegations against the accused is that they objected to the shifting of 10 ventilators from SHKM Nalhar Hospital to Rewari and Palwal. The ventilators were being shifted on government orders. Apparently, the accused persons obstructed the shifting of the ventilators and few of the accused pelted stones. The applicant-accused Mohd. Aasim is alleged to have instigate the co-accused by using his mobile phone. Also, he has been attributed Chantia blow to police officials, which caused injuries, as corroborated by medical records. The said weapon of offence and mobile phone are to be recovered from him. Custodial interrogation is required in the present case to interrogate about the role of each accused. Also, the accused is not entitled to the extraordinary relief of pre-arrest bail since he prima-facie obstructed the shifting of ventilators at the time of Covid Pandemic for several hours. The loss caused to the patients*

*on account of the acts and the applicants and other co-accused, cannot be compensated and the offence is prima-facie grave in nature. The extra-ordinary relief of pre-arrest bail is granted in cases where there are chances of false implication, no custodial interrogation is required and no recovery is to be effected. The case of the applicant-accused does not fall in the above-said categories. Custodial interrogation is required in the present case to inquire the role of each accused and for recovery of the weapon, used in the offence.*

The allegations against the petitioner are very grave and serious that he along with his co-accused constituting a mob, had attacked the complainant, a public servant and other persons with him also public servants and during the incident Rs.1,700/- were snatched from HC Anand from front pocket of the uniform, which he was wearing and that uniform was torn by the mob and he was caused injuries also. The petitioner/accused Mohd. Aasim is said to have instigated his co-accused for raising obstruction in transportation of ventilators from SHKM Nalhar Hospital to Palwal Hospital. Such act and conduct of the petitioner coupled with the fact that public servants were assaulted and uniform of one of police official was torn with injuries to the police official on duty clearly debars the petitionr/accused from claiming discretionary equitable relief of pre-arrest bail.

Furthermore, the custodial interrogation of the

petitioner/accused is required for complete and effective investigation to unfold the complete story and to effect recovery of weapon used besides his mobile phone. In case custodial interrogation of the petitioner 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 uncalled 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, the facts and circumstances of the case do not call for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

5.8.2021  
Brij

(H.S.MADAAN)  
JUDGE

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**