



108 CRM-M-45887-2023

**MAMMAN KHAN
VS
STATE OF HARYANA AND OTHERS**

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. Arshdeep Singh Cheema, Advocate and
Mr. Satish Sharma, Advocate for the petitioner.

Mr. Deepak Sabharwal, Addl. A.G. Haryana
for the respondents.

Mr. Deepak Sabharwal, Addl. A.G. Haryana, who is present in the Court as an advance copy of the petition had already been given to the State, has made preliminary submissions on behalf of the State that in FIR No.149 dated 01.08.2023 registered under Sections 148, 149, 153-A, 379-A, 436, 506 of Indian Penal Code, 1860 at Police Station Nagina, District Nuh, Haryana, in all, there are 52 accused persons, out of which, five persons were named in the FIR and out of the said 52 accused persons, 42 persons have been arrested. It is further submitted that one Taufiq son of Sh. Fatey Mohammad, who is also an accused in the FIR, has been arrested on 09.08.2023 and said Taufiq has named the present petitioner as one of the accused in the present case. It is also submitted that thereafter, due investigation was conducted and the call details from the mobile phones and tower location of Taufiq and the present petitioner were examined and it was found that calls were exchanged on 29.07.2023 and 30.07.2023 which was one day prior to the incident in question i.e., on 31.07.2023. It is further submitted that as per the tower location, the petitioner was within an area of 1.5 km from the place of occurrence on 29.07.2023 and 30.07.2023 and thus, the averments to the effect that that he was not close to the place of the occurrence in the petition is not correct. It is further submitted that the



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statements of Security Officers of the petitioner i.e., Constable Jai Prakash and Constable Pradeep have also been recorded under Section 161 Cr.P.C. and the said two police officials have also confirmed the fact with respect to the presence of the petitioner being within a range of 1.5 km from the place of occurrence on 29.07.2023 and 30.07.2023. It is contended that the petitioner had posted on Whatsapp as well as on Facebook on 30.07.2023 that 'Nobody needs to worry as the petitioner had fought for them in the Vidhan Sabha and will fight for them in Mewat also.' It is further submitted that one Abdulla Khan is also an accused who is yet to be arrested and even in one of his posts, he had mentioned "Engineer Mamman Khan MLA Mission complete".

Learned Additional Advocate General, Haryana, has further submitted that notice dated 25.08.2023 (Annexure P-9) was issued to the petitioner for appearing on 31.08.2023 but the petitioner had sent reply dated 31.08.2023 stating that he was not feeling well and thus, sought 10 days time for joining the investigation. It is submitted that since the petitioner had not joined the investigation and after considering the entire material, the petitioner has been nominated as an accused in the present FIR by the head of SIT vide Case Diary No.21 dated 04.09.2023. It is further contended that in the present case, investigation has been done by SIT comprising of DSP Satish Kumar, SHO Nagina and SI Varinder under the direct supervision of the Superintendent of Police, Nuh. It is also submitted that it has been decided that Inspector General of Police, South Range, Rewari would monitor the investigation and would seek a weekly update. It is submitted that the investigation has been done fairly and at a good pace and there is now peace in the District of Nuh.



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Learned Senior Counsel for the petitioner has submitted that the fact that the petitioner has been nominated as an accused in the FIR has been made known to the petitioner today itself on the basis of submissions made by learned State Counsel and thus, the petitioner be given liberty to seek appropriate remedy for protection of liberty.

Learned Senior Counsel for the petitioner has also submitted that however, the petitioner would press his primary prayer with respect to the constitution of a high level Special Investigation Team comprising of Officers not below the rank of the Inspector General of Police and for transferring of cases with respect to the incidents of violence as erupted on 31.07.2023 (inadvertently mentioned as 30.07.2023 in the head note) to the said SIT and that the investigation details be not shared with political executive.

Notice of motion with respect to the limited prayer made by learned Senior Counsel for the petitioner.

Liberty is granted to the petitioner to seek appropriate remedy for protection of liberty in accordance with law.

Mr. Deepak Sabharwal, Addl. A.G. Haryana accepts notice on behalf of the respondents and prays for an adjournment to file reply.

Adjourned to 19.10.2023.

It is made clear that all issues including the aspect of maintainability as well as other aspects are kept open.

14.09.2023
Pawan

(VIKAS BAHL)
JUDGE