

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

CRM-M-21420 of 2016

Date of decision: July 11, 2016

Kherunisha

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Satish Chaudhary, Advocate
for the petitioner.

Ms. Neelam Kashyap, AAG, Haryana assisted by
ASI Shakunt Raj.

Mr. Rajesh Lamba, Advocate
for the complainant.

JASPAL SINGH, J.

Instant petition has been preferred by Kherunisha under Section 438 of the Code of Criminal Procedure seeking her pre-arrest bail, feeling apprehension of her arrest, in case bearing FIR No.97 dated 02.04.2016, under Sections 420/467/468/471 IPC registered at Police Station Tauru District Mewat.

Briefly stated that the case of the prosecution is that the petitioner filed her nomination form for the election of Sarpanch of village Shikharpur, Tehsil Tauru, District Mewat. The school leaving certificate of 8th class as well as the affidavit were annexed with the aforesaid nomination form but during the investigation of the case, aforesaid certificate of 8th class was found to be false, forged and fabricated. Accordingly, the FIR was registered and the investigation was put into

motion.

The contention of learned counsel for the petitioner is that the petitioner has been falsely implicated in the instant case. In fact, some mischievous persons of the village as well as the opponent party-candidate who had contested election for the post of Sarpanch of Gram Panchayat of village Shikharpur lodged some frivolous complaints against the petitioner not only before the Deputy Commissioner but also filed an election petition before the Election Tribunal i.e. Civil Court under Section 176(b) of the Haryana Panchayati Raj Act, 1994 which are being faced by the petitioner. Since the Election Commissioner is already seisen of the matter, the lodging of the present FIR and the initiation of the investigation is not legally and fairly justified. Moreover, the certificate furnished by the petitioner is legal, valid and genuine, the authenticity of which is already pending adjudication before the Election Commissioner. The petitioner is also ready to join the investigation and to abide by all the terms and conditions in case she is granted the concession of pre-arrest bail.

On the other hand, learned State counsel has resisted the application and has supported the order passed by learned Additional Sessions Judge. He has submitted that the petitioner not only indulged in forging and fabricating the false certificate for unlawful gain but has also destroyed the original school record, in connivance with the headmaster and the other staff. Such a person does not deserve the concession of discretionary relief.

This Court has given anxious thought of the aforesaid submission made by learned counsel for the parties and have perused the

record.

Undisputably, the petitioner contested election for the post of Sarpanch. Along with her nomination form, she also annexed 8th class certificate to show that she is qualified to contest the election for the post of Sarpanch. Besides it, an affidavit in this regard was also furnished by her but here it would be pertinent to mention that the matter was enquired into by the police and the certificate so furnished by the petitioner along with her nomination form has been found to be fake and fabricated one. The District Education Officer who had conducted an inquiry has submitted his report unfolding that the certificate in question issued to the accused is forged and fabricated and further that the original admission record has been destroyed by the headmaster in collusion with the petitioner and other officials of the concerned school staff.

The allegations contained in the FIR are *prima facie* established. There are serious and grave allegations against the petitioner and this Court is of the considered view that custodial interrogation of the present petitioner is necessary to unearth all the ramifications involved in this case and further in the absence of custodial interrogation of the petitioner, investigation of this case is likely to be stultified.

In view of above, this Court does not find any merit in the instant petition, and the same is dismissed.

July 11, 2016
m. sharma

(JASPAL SINGH)
JUDGE