

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.2082 OF 2017

Mrs. Pratibha Mahesh Mate Applicant

Vs.

The State of Maharashtra & Ors. Respondents

Mr. V.V. Purwant for the Applicant.

Mr. Tejesh Dande a/w Mr. Bharat Gadhvi I/by Tejesh Dande & Associates for the Intervenor.

Mr. Vinod Chate APP for the State.

Coram : *Smt. Sadhana S. Jadhav, J.*

Date : *22nd June, 2018*

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending her arrest in Crime No.299 of 2017, registered at Haveli Police Station, for the offences punishable under Sections 420, 467, 468, 471 of Indian Penal Code.

3 It is the case of the prosecution that Ashok alias Tukaram Laxman Mate had lodged a report at the police station alleging therein that in the year 2012, the elections of Khadakwasala were held, wherein the present applicant had contested the election from reserved category by showing that she belongs to Backward Class. She had filed her nomination in her maiden name. She had also campaigned that she belongs to Backward Class. She had enjoyed the tenure as a Sarpanch. There was a pamphlet that was distributed on 31st January 2013 that she has filed forged caste certificate with her nomination papers and therefore a complaint was filed to the Caste Scrutiny Committee.

4 The Additional Commissioner, Pune Region, vide order dated 16th September 2014 had disqualified the present applicant from continuing as a Member and Sarpanch, Gram Panchayat, Khadakwasala after the orders of the Caste Scrutiny Committee. The Caste Scrutiny Committee had informed the complainant that the Caste Certificate No.69569 dated 6th June, 2012 had in fact never

been issued by the Caste Scrutiny Committee. The complainant had approached the Collector by invoking provisions of 16(2) of the said Act. It was revealed that the original caste certificate bearing No.69569 was in fact issued in favour of one Lahu Salve, who belongs to Shegar Dhangar Caste. The applicant had forged the said certificate. The Additional Commissioner had set aside the order passed by the Additional Collector, hence, the complainant was constrained to approach this Court by filing Writ Petition No.9380 of 2014. The said writ petition was allowed, by this Court (Coram : M.S. Sonak, J.), vide order dated 5th February 2015 by setting aside the order of the Additional Commissioner and restoring the order dated 4th January 2014 passed by the Additional Collector. In fact the complainant had approached this Court by filing Writ Petition No.3980 of 2014, which was withdrawn before Division Bench on 27th June, 2017 with liberty to approach the concerned police station under Section 154(1) of Cr.P.C.. Accordingly, the complainant approached the police station and on the basis of the said report, crime is registered.

5 It is clear from the papers of investigation and the judgment of this Court dated 5th February 2015 that the applicant herein had rather forged caste certificate issued originally in the name of Lahu Salve and had contested the elections. It is pertinent to note that in the year 2017, she once again wanted to contest the election and therefore had approached Caste Scrutiny Committee and had obtained the certificate indicating that she belongs to Other Backward Caste. Therefore, it is more than clear that the earlier certificate was forged and fabricated.

6 The applicant has served as a peoples representative on the basis of the forged certificates and had mis-represented to the Electorate. In view of this, the applicant does not deserve protection under Section 438 Cr.P.C. The application stands rejected.

7 The observations are restricted to application under Section 438 of the Code of Criminal Procedure, 1973.

8 The Intervention Application is heard, allowed and disposed of.

(*Smt. Sadhana S. Jadhav, J*)