

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

CRM-M No. 8076 of 2019

Date of decision : 07.03.2019

Seema alias Baby

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Parveen Kaushik, Advocate for the petitioner.

Mr. R. S. Doon, AAG, Haryana.

Mr. Rajesh Bansal, Advocate for the complainant.

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DAYA CHAUDHARY, J.

Petitioner Seema alias Baby has approached this Court by way of filing the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short – 'Cr.P.C.') for grant of anticipatory bail to her in case FIR No. 662 dated 13.10.2018 under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (for short – 'IPC'), registered at Police Station – Samalkha, Distt. Panipat.

Complainant Kapil Sharma filed a complaint under Section 156(3) Cr.P.C. against the present petitioner alleging therein that the petitioner, who is presently Sarpanch of village Narayana, contested election in the year 2016 with the wrong name as Seema Rani by using documents of her sister. On the basis of said complaint, above mentioned FIR was registered against the petitioner. Anticipatory bail application filed by the petitioner was dismissed by learned Addl. Sessions Judge, Panipat

vide order dated 07.02.2019.

Learned counsel for the petitioner submits that one Chander Bhan was having two daughters and both were named as Seema. The present petitioner Seema alias Baby contested election of Sarpanch. She was Matriculate and was also having voter card and Aadhar Card in the name of Seema. Earlier a sale deed was also executed after purchasing property in her name. There was an insurance policy of the petitioner in the name of Seema which was also placed on record. Learned counsel also submits that co-accused of the petitioner has been released on anticipatory bail. Nothing is to be recovered from her as the case is based on documentary evidence.

Learned State counsel has opposed the bail on the ground that name of the petitioner is Baby whereas she contested election of Sarpanch in name of Seema by misusing Matriculation certificate of her sister Seema, who is wife of Sanjay. There are serious allegations of forging documents and misrepresentation before the election authority for contesting election of Sarpanch. Petitioner has also been removed from office of Sarpanch only on this ground vide order dated 21.01.2019. The matter was investigated by Sub Divisional Officer (Civil) Samalkha and a report in this regard was submitted, wherein it was mentioned that the petitioner has not passed even 8th Class. She contested the election by relying upon the document of her sister Seema wife of Sanjay.

Learned counsel for the complainant has also reiterated the arguments raised by learned State counsel. He also submits that it is a case

of total fraud played with the election authorities at the time of contesting elections of Sarpanch by relying upon document of the educational qualification of her sister as the petitioner was not fulfilling the qualification for contesting the election. A written complaint was made in this regard, on the basis of which inquiry was conducted wherein it was found that the petitioner had submitted documents of her sister and by taking benefit of her qualification, contested the election. Subsequently, she was removed from the office of Sarpanch.

Heard learned counsel for the parties and have also perused the FIR and other documents available on the file.

In the present case, allegations against the petitioner are of misrepresentation and playing fraud with the election authorities by using name of her sister showing that both the sisters were known by the same name. The sister of the petitioner is married to one Sanjay. A detailed inquiry was conducted by Sub Divisional Officer (Civil), Samalkha and by considering the inquiry report, the petitioner was removed from the office of Sarpanch. However, the appeal is still pending and there is no interim order. It is a case of forging of documents and misrepresentation before election authorities and to take benefit on the basis of documents of qualification which even did not belong to her. Even during arguments also, learned counsel for the petitioner was asked to produce any document to show that the petitioner is known by the name Seema but no such documents were produced.

It is well settled proposition of law that misrepresentation itself

amounts to fraud. A frequent misrepresentation, which appears to be false and with ulterior motive is bad in law. Moreover, when deliberate fraud is played with a motive to secure something, it amounts to abuse of process of law as has been held by Hon'ble the Apex Court in case ***Ram Chandra Singh Vs. Savitri Devi 2003 (8) SCC 319*** and Delhi High Court in ***Seemax Construction (P.) Ltd. Vs. State Bank of India AIR 1992 Delhi 197***.

In view of the serious allegations levelled against the petitioner, she does not deserve concession of anticipatory bail and as such the present petition being devoid of any merit is dismissed.

07.03.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No