

WPA 16146 of 2023

Khokan Gayen & anr.

-vs-

State of West Bengal & ors.

Mr. Rajdeep Mazumdar
Mr. Moyukh Mukherjee
Mr. Pritam Roy
Mr. Abhijit Singh

...for the petitioners

Mr. Amitesh Banerjee
Ms. Ipsita Banerjee

...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to quash the proceeding being Nischinda Police Station Case No. 119 of 2023 dated 04.07.2023 initiated against the petitioners and till then to pass an order not to take coercive measures in respect of the same.

Affidavit of service filed on behalf of the petitioners is taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner nos. 1 and 2 are the independent candidates who are contesting in the ensuing Gram Panchayet Election. Since the petitioners had changed side, the miscreants belonging to the ruling party had been harassing and intimidating them. The petitioners still have

somehow been able to carry on participating the elections. However, on 5th July, 2023, a false case was started by the Administration against the petitioners so as to prevent them from participating in the election process.

Learned counsel appearing on behalf of the State submits as follows. The petitioners have committed serious offences as would be evident from the charges contained in the FIR. It includes Section 326 of the Indian Penal Code.

At this stage, learned counsel representing the petitioners submits as follows. The petitioners would not like to press for quashing of the proceeding at this stage. In fact, the petitioners undertake to either surrender before the learned trial Court on 14th July, 2023 or to pray for filing an application for anticipatory bail before the appropriate forum on that day and prays that till that date, they may be granted the relief of not to take coercive measures.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the case diary in Nischinda Police Station Case No. 119 of 2023 dated 04.07.2023.

The case started against the present petitioners is of a very recent origin. It was done on 5th July, 2023 during the continuance of the election process.

Be that as it may, the petitioners have undertaken either to surrender or to pray for anticipatory bail after the election process is substantially over so that they can participate in the same till such date.

In view of the same, the writ petition is disposed of with a direction that the respondent authorities shall not take any coercive measures against the petitioners till 14.07.2023 when the petitioners shall either surrender before the learned trial Court or pray for anticipatory bail before the appropriate forum.

This direction shall not have any effect on the application for anticipatory bail or bail, if any, made by the petitioners .

Urgent photostat certified copy of this order may be delivered to the learned advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)