

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20136 of 2024

Arising Out of PS. Case No.-180 Year-2023 Thana- BARSOI District- Katihar

Umme Khadeja @ Umme Khadija W/o Safikul Alam R/o vill - Kotra
Basalgaon, P.S. - Barsoi (Kachna O.P.), Distt. - Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Helal Ahmad, Advocate.

For the Opposite Party/s : Mr.Abhay Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 02-04-2024 Heard Mr. Md. Helal Ahmad, learned counsel
appearing on behalf of the petitioner and Mr. Abhay Kumar,
learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection
with Barsoi (Kachna O.P.) P.S. Case No. 180 of 2023 registered
for the offence punishable under Sections 420, 467, 468, 471
and 472 of the Indian Penal Code.

3. As per the allegation made in the F.I.R., the
petitioner was elected ward member on the basis of Caste
Certificate No. BRCCO/2021/6935801 which allegedly
belonged to Md. Kamrujjama Ansari. The said information was
verified by the Circle Officer, Barsoi and based on the inquiry
made by the Circle Officer by his letter no. 1462 dated
08.09.2022, the present F.I.R. has been lodged.



4. Learned counsel appearing on behalf of the petitioner submitted that a false case of forgery has been alleged against the petitioner due to political rivalry between the informant and the petitioner. The informant's wife was not successful in the election for the post of ward member which led to filing of the false case in connivance of the Circle Officer who had prepared a false inquiry report and based on that F.I.R. has been lodged against the petitioner. Learned counsel submitted that the petitioner had filed her nomination paper along with original caste certificate which has been annexed as Annexure-2 to the bail application issued by the Sub Divisional Officer, Raiganj, Uttar Dinajpur, West Bengal. Learned counsel, however, admits the fact that the same may not be valid in the State of Bihar. Based on the complaint made by one Md. Mastan, the Circle Officer has verified the caste certificate issued in the name of Md. Kamrujjama Ansari and F.I.R. has been lodged on that basis which cannot be sustained considering the fact that the caste certificate submitted by the petitioner was verified at the time of scrutiny of the Nomination Papers filed by the petitioner contesting the election. The petitioner was allowed to participate in election only after the scrutiny was conducted by the Returning Officer with respect to all the



documents furnished by the petitioner and no infirmity at that point of time was found against the petitioner. Learned counsel submitted that the matter relating to caste and forged caste certificate can be considered by the Caste Scrutiny Committee in terms of the constitutional provision and the and the F.I.R. being vexatious and based on the same, the petitioner cannot be forced to face false prosecution.

5. Learned APP for the State has vehemently opposed the prayer for grant of pre-arrest bail to the petitioner. He further submitted that the petitioner on his own has brought on record the caste certificate duly issued by the Government of West Bengal whether and whether the same is applicable in the State of Bihar has to be judged. Categorization of caste and further categorization into Scheduled caste, Scheduled Tribes, Backward Classes, Extremely Backward Classes and EWS has been notified by the State of Bihar and the petitioner has not been able to make out his case as to whether the State of Bihar has accepted the caste certificate issued by the Government of West Bengal. On these ground, learned counsel submits that on the basis of forged caste certificate, matter is under investigation and it is too early to grant bail on technical grounds to the petitioner considering the remedy available to the petitioner by



filing application before the Caste Scrutiny Committee.

6. Having heard the rival submissions made on behalf of the parties as well as specific allegation made in the F.I.R., the petitioner on the basis of caste certificate belonging to one Md. Kamrujjama Ansari bearing Certificate No. BRCCO/2021/6935801 allegedly duly issued by the Circle Officer, Barsoi contested election and the Circle Officer upon inquiry has found that the certificate submitted by the petitioner has been issued by the S.D.O., West Bengal which reflects forgery committed by the petitioner and in this regard petitioner was also given opportunity to file her show cause. It is admitted that the wife of the complainant / informant was also contesting election for the post of Ward Member and she could not succeed in the said election and thereafter they proceeded to lodge F.I.R. without making any objection at the stage of scrutiny, the Constitutional mandate provides for Caste Scrutiny Committee and considering the fact that the State Government has also constituted a Caste Scrutiny Committee where the matter can be verified for declaring the candidature of the petitioner based on the alleged forgery committed by her, I find that the petitioner has, prima facie, made out a case to be released on pre-arrest bail.



7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of her arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Katihar in connection with Barsoi (Kachna O.P.) P.S. Case No. 180 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

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