

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1987 of 2021**

Arising Out of PS. Case No.-51 Year-2019 Thana- MAINATAND District- West Champaran

JAWAHIR MAHATO S/o Yamuna Mahato R/o Purainiya, Pirari, P.S.-
Mainatand, District- West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bimlesh Kumar Pandey- Advocate
For the Respondent/s : Ms. Usha Kumari-1- S.P.P.

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER**

2 12-08-2021 Heard Mr. Bimlesh Kumar Pandey, the learned
Advocate for the appellant and Ms. Usha Kumari-1, the learned
Special Public Prosecutor for the State.

The appellant has challenged the order dated 01.02.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Bettiah, West Champaran in connection with Mainatand P. S. Case No.51 of 2019, instituted for the offences under Sections 147, 148, 149, 323, 504 of the Indian Penal Code and Section 3(i)(w) (r)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.

The accusation in the F.I.R. is that the accused persons assaulted and abused the members of the



prosecution party. The main allegation of assault is on one Julfkar Miyan who is said to have given a sword blow to the informant, leading to injuries on him.

The learned Advocate for the appellant has submitted that he has not been named in the F.I.R. and only during the investigation, his name has transpired as a person who was present at the place of occurrence. Assuming but not admitting the aforesaid accusation against the appellant to be true, none of the offences under any one of the provisions of the I.P.C. or of the SC/ST (P.O.A.) Act can at all be said to have been made out. Even with such a deficient evidence against the appellant, there is no accusation of any overt act by him.

Regard being had to the aforesaid submissions, the order dated 01.02.2021 is set-aside.

The appeal stands allowed.

The appellant, above-named, in the event of his arrest or surrender before the learned Court below within a period of eight weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-



Special Judge (SC/ST), Bettiah, West Champaran in connection
with Mainatand P. S. Case No.51 of 2019, subject to the
conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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