

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.298 of 2021

Arising Out of PS. Case No.-551 Year-2020 Thana- MAJHAULIA District- West Champaran

NAJBULLAH MIAN @ MD. NAZIBULLAH Son of Kalam Mian @ Md.
Kalam Resident of Village - Basra, Ward No. 03, P.S. - Majhulia, District -
West Champaran.

... .. Appellant/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Umesh Chandra Verma
For the Respondent/s : Ms. Usha Kumar

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 25-06-2021 Heard Mr. Umesh Chandra Verma, learned

counsel for the appellant and Ms. Usha Kumari, learned

Special Public Prosecutor for the State.

This appeal is directed against the order dated

15.10.2020, passed by the learned 1st Additional

Sessions Judge – cum – Special Judge under SC & ST

Act, West Champaran, Bettiah, in A.B.P. No. 1789 of

2020, arising out of Majhulia P. S. Case No. 551 of

2020, dated 05.08.2020, whereby the prayer made on

behalf of the appellant for grant of anticipatory bail for

the offences punishable under Sections 341, 323, 447,



504, 506 and 34 of the Indian Penal Code and Section 3 (1) (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been rejected.

The accusation against the appellant and other is of abusing the informant and her family members as also assaulting them.

The learned counsel for the appellant, has submitted that the present case (subject F.I.R.) is in retaliation of the case lodged by the mother of the appellant *vide* Majhauria P. S. Case No. 552 of 2020.

It has been submitted that the appellant is a student of B.Sc. and is a neighbour of the informant. There has been a dispute with the informant because of drainage of water.

It has further been submitted that the charges under Section Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is a deliberate addition in the F.I.R. to make the case look serious.

It has, therefore, been urged that no offence



under anyone of the provision of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 can at all be said to have been made out against the appellant.

For the reasons aforesaid, the appeal is allowed.

The order dated 15.10.2020, passed by the learned 1st Additional Sessions Judge – cum – Special Judge under SC & ST Act, West Champaran, Bettiah, is set aside.

The appellant, above-named, is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge – cum – Special Judge under SC & ST Act, West Champaran, Bettiah, in connection



with Majhaulia P. S. Case No. 551 of 2020, subject to
the conditions as laid down under Section 438 (2)
Cr.P.C.

(Ashutosh Kumar, J)

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