

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3526 of 2023

Arising Out of PS. Case No.-187 Year-2023 Thana- MAJHAULIA District- West Champaran

SEIKH MOKHTAR @ MOKHTAR MIAN @ MUKHTAR HUSAIN Son of
Late Maksud @ Maksud Mian Resident of village - Madhopur Seikh Toli,
P.S. - Majhauriya, Distt. - West Champaran

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Nagina Das Son of Late Punyadev Das Resident of village - Madhopur
Seikh Toli, Eard No. 8, P.S. - Majhauriya, Distt. - West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bimlesh Kumar Pandey
For the Respondent/s : Mrs. Usha Kumari I

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 29-03-2024 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes against the refusal of prayer for anticipatory bail vide order dated 21.06.2023 passed by the learned Additional District and Sessions Judge 1st cum Special Judge (S.C./S.T.), Bettiah, West Champaran in connection with A.B.P. No. 1553/2023, arising out of Majhauriya P.S. Case No. 187 of 2023, registered for the alleged offences under Sections 147, 148, 149, 323, 324, 307, 504, 153A of the Indian Penal Code and Sections 3(i)(r)(s) and 3(2)(v-a) of the SC/ST (Prevention of Atrocities) Act.

3. As per the prosecution case, when the informant and other persons were going through mosque the appellant along with



other persons is alleged to have abused the informant by calling his caste name and also assaulted them with *lathi*, *fatta*, *gadasi* and sword with intention to kill, pelting bricks and stones and as a result eight to ten persons got badly injured.

4. Learned counsel for the appellant submitted that the appellant is innocent and have been falsely implicated in this case. The allegation of abusing against the appellant is general and omnibus and no member of public was present at the relevant point of time of the incident and hence, no offence under the provisions of SC/ST Act is made out against the appellants. The nature of injury is found to be simple in nature.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for anticipatory bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of learned counsel for the appellant, the impugned order dated 21.06.2023 passed by the learned Additional District and Sessions Judge 1st cum Special Judge (S.C./S.T.), Bettiah, West Champaran in connection with A.B.P. No. 1553/2023, arising out of Majhauriya P.S. Case No. 187 of 2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his arrest/ surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on



furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 1st cum Special Judge (S.C./S.T.), Bettiah, West Champaran in connection with A.B.P. No. 1553/2023, arising out of Majhauriya P.S. Case No. 187 of 2023, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Ranjeet/-

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