

(2011) 06 AHC CK 0132
In the Allahabad High Court

Kamla Shankar Maurya and Another	Vs	APPELLANT
State of U.P.and Others		RESPONDENT

Date of Decision : 28-06-2011

Acts Referred:

Citation : (2011) 06 AHC CK 0132

Hon'ble Judges : Sheo Kumar Singh, J and Rajesh Chandra, J

Final Decision : Disposed Of

Judgement

Rajesh Chandra, J.—Heard learned counsel for the petitioners, Sri S.P.S. Parmar, learned Advocate who appeared for private respondent and learned A.G.A.

2. This writ petition has been filed for quashing the first information report in case crime no. 165 of 2011 under Sections 323, 504, 506, 419, 420, 467, 468, 471, 406 I.P.C., Police Station Handia, District Allahabad.

3. The writ Court is not competent to go into the questions of facts and on the allegations, it cannot be said that no prima facie case is disclosed.

4. Hence, no ground exists for quashing the first information report or staying the arrest of the petitioners.

5. However, in the circumstances of the case, it is provided that if the petitioners move an application for surrender before the Court concerned within three weeks from today, the Magistrate concerned shall fix a date about two weeks thereafter for the appearance of the petitioners and in the meantime release the petitioners on interim bail on such terms and conditions as the Court concerned considers fit and proper till the date fixed for the disposal of the regular bail.

6. The Court concerned shall also direct the Public Prosecutor to seek instructions from the investigating officer by the date fixed and after giving opportunity of hearing shall decide the regular bail application of the petitioner in accordance with the observations of the Full Bench of this Court in Amrawati and another Vs. State of u.P., 2004 (57) ALR 290, affirmed by the Supreme Court in Lal

Kamlendra Pratap Singh Vs. State of u.P., 2009 (2) Crime 4 (SC) and reiterated by the Division Bench of this Court in Sheoraj Singh alias Chuttan Vs. State of u.P. and others (2009) (65) ACC 781. If further instructions are needed or if adjournment of the case on the date fixed for hearing becomes unavoidable, the Court may fix another date, and may also extend the earlier order granting interim bail, if it deems fit.

7. It will also be in the discretion of the Sessions/Special Judge concerned to consider granting interim bail pending consideration of the regular bail on similar terms as mentioned herein above when the petitioners apply for bail before him.

8. In case the petitioners fail to appear before the Court concerned on the dates fixed or they fail to cooperate with the investigating officer during interrogation, it will be open to the Public Prosecutor to move an application for canceling the order of interim/final bail and the Court concerned may pass an appropriate order on merits.

9. With the aforesaid observation, this petition is disposed of.