

Munish Mishra and Anr. Vs State of U.P. and Others

Court: Allahabad High Court

Date of Decision: March 30, 2011

Hon'ble Judges: Amar Saran, J and Arvind Kumar Tripathi, J

Final Decision: Disposed Of

Judgement

Arvind Kumar Tripathi, J.

Heard learned counsel for the petitioners, learned A.G.A. for the State and perused the record.

This writ petition has been filed for quashing of an FIR in case crime no.570 of 2011, under Sections 147, 448, 520, 467, 468, 471, 506 IPC and

3(1)X SC/ST Act, P.S. Kotwali Farrukhabad, District Farrukhabad.

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

Hence no ground exists for quashing the F.I.R.

However, in the facts and 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 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. The court concerned shall also direct the Public Prosecutor to seek instructions from the investigating

officer by the date fixed and as far as possible, also give an opportunity of hearing to the informant and thereafter decide the regular bail application

of the petitioners in accordance with the observations of the Full Bench of this Court in Amrawati Vs. State of U.P. 2005 Cri.L.J.755, affirmed by

the Supreme Court in Lal Kamendra Pratap Singh vs. State of U.P. (2009) 4 SCC and reiterated by the Division Bench of this Court in Sheoraj

Singh alias Chuttan vs. State of U.P. 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, provided

that the adjournment of hearing of the regular bail on one or more dates should not exceed a total period of one month.

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 and if the petitioners apply for bail before him.

For a period of three weeks from today or till the petitioners appear/surrender before the court below and apply for bail (whichever is earlier), the

petitioners shall not be arrested in the aforementioned case crime.

In case the petitioners fail to appear before the court concerned on the dates fixed or he fails to cooperate with the investigating officer during

interrogation, it will be open to the Public Prosecutor to move an application for cancelling the order of interim/final bail and the Court concerned

may pass an appropriate order on merits.

With the aforesaid observations, this petition is disposed of.