

**(2011) 03 AHC CK 0196****Allahabad High Court****Case No:** None

Prem Pal and Anr.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

**Date of Decision:** March 30, 2011**Hon'ble Judges:** Vineet Saran, J and Surendra Singh, J**Final Decision:** Disposed Of**Judgement**

Surendra Singh, J.

Heard learned counsel for the petitioners and learned A.G.A.

This writ petition has been filed for quashing of an FIR in case crime no. 23 of 2011, under sections 307, 504, 506 IPC and section 30 Arms Act, police station Kisaund (Sungarhi), district Kashiram Nagar.

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 Kamlendra 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. Heard learned counsel for the petitioners and learned A.G.A.

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 they fail to cooperate with the investing 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.