

(2012) 01 AHC CK 0662

Allahabad High Court

Case No: Criminal Misc. Writ Petition No. 546 of 2012

Durgesh and Another

APPELLANT

Vs

State of U.P. and
Others

RESPONDENT

Date of Decision: Jan. 13, 2012

Acts Referred:

- Penal Code, 1860 (IPC) - Section 323, 504, 506
- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3(1)(X)

Citation: (2012) 01 AHC CK 0662

Hon'ble Judges: Vinay Kumar Mathur, J; Devendra Pratap Singh, J

Bench: Division Bench

Advocate: Arvind Kumar Mishra, for the Appellant;

Final Decision: Disposed Off

Judgement

1. Heard learned counsel for the petitioners and learned Additional Government Advocate. This writ petition has been filed for quashing of an FIR in case crime No.205 of 2011 under Sections 323, 504, 506 IPC and 3(1)(X) SC/ST Act, P.S. Belghat, District-Gorakhpur.
2. 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.
3. Hence, no ground exists for quashing the FIR or staying the arrest of the petitioners.
4. 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 ten days 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.

5. 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 [Amarawati and Another \(Smt.\) Vs. State of U.P.](#), affirmed by the Supreme Court in [Lal Kamendra Pratap Singh Vs. State of U.P. and Others](#), 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.

6. 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.

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 and if the petitioners apply for bail before him.

8. 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.

9. It is made clear that if the petitioners fail to appear before the court concerned for the purpose of applying for bail within the time allowed, no further extension will be given.

10. 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 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 off.