

Supreme Court of India Lal Kamendra Pratap Singh vs State Of U.P.& Ors on
23 March, 2009 Author:J. Bench: Markandey Katju,
V.S. Sirpurkar REPORTABLE IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.538 OF 2009
[ARISING OUT OF SLP (CRIMINAL) NO.7021 OF 2007]

LAL KAMLENDRA PRATAP SINGH Appellant(s)

VERSUS

STATE OF U.P.& ORS. Respondent(s)

ORDER

Heard learned counsel for the parties. Leave granted. The appeal by Special leave has been filed against the impugned Judgment dated 3.9.2007 of the Allahabad High Court in Criminal Miscellaneous Writ Petition No.13227/2007. The aforesaid writ Petition was filed for quashing the F.I.R. in case Crime No.1133/2007 under Sections 467,468,471,420,409 and 218 I.P.C., Police Station Mahoba, District Mahoba, U.P. By the impugned Judgment, the High Court refused to quash the F.I.R. but directed that if the appellant surrenders within 10 days, his bail application will be considered and disposed of expeditiously. Aggrieved by that order this appeal has been filed. By an interim order dated 30.11.2007 this Court directed that the petitioner shall not be arrested in the meanwhile. We are today informed by Shri S.R.Singh, learned senior counsel appearing for the State of U.P. that charge sheet has been filed and cognizance has been taken and the case is now pending before the trial Court. In these circumstances, he submitted that we should not exercise our discretion under Article 136 of the Constitution of India for quashing the F.I.R. Learned counsel for the appellant apprehends that the appellant will be arrested as there is no provision for anticipatory bail in the State of U.P. He placed reliance on a decision of the Allahabad High Court in the case of Amaravati Vs. State of U.P. 2005 Cr.L.J 755 in which a Seven Judge Full Bench of the Allahabad High Court held that the Court, if it deems fit in the facts and circumstances of the case, may grant interim bail pending final disposal of the bail application. The Full Bench also observed that arrest is not a must whenever an F.I.R. of a cognizable offence is lodged. The Full Bench placed reliance on the decision of this Court in Joginder Kumar Vs. State of U.P., 1994 Cr.L.J.1981. We fully agree with the view of the High in Amaravati's case (supra), and we direct that the said decision be followed by all Courts in U.P. in letter and spirit, particularly since the provision for anticipatory bail does not exist in U.P. In appropriate

cases interim bail should be granted pending disposal of the final bail application, since arrest and detention of a person can cause irreparable loss to a person's reputation, as held by this Court in Joginder Kumar's case (supra). Also, arrest is not a must in all cases of cognizable offences, and in deciding whether to arrest or not the police officer must be guided and act according to the principles laid down in Joginder Kumar's case (supra). Since, charge sheet has been filed and cognizance has been taken, and on the facts of this case, in our opinion, this is not a fit case for quashing the first information report. The Appeal is dismissed, However, the appellant is granted time to appear before the trial Court on or before 15th April, 2009 and to file an application for bail. If such an application is filed, the trial Court shall consider the same on its own merits in accordance with law, and if it so deems fit, grant interim bail to the appellant pending the final disposal of his bail application. Let a copy of this judgment be sent to the Registrar General of the Allahabad High Court who will circulate it to all Hon'ble Judges of the High Court and send copies to all District Judges in the State.J. [MARKANDEY KATJU]

NEW DELHI;J. MARCH 23, 2009. [V.S.SIRPURKAR]