

Allahabad High Court

Mohd. Faisal & Others vs State Of U.P. & Others on 1 July, 2010

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 21780 of 2008

Petitioner :- Mohd. Faisal & Others

Respondent :- State Of U.P. & Others

Petitioner Counsel :- Manish Tandon

Respondent Counsel :- Govt. Advocate

Hon'ble Amar Saran,J.

Hon'ble Yogesh Chandra Gupta,J.

We have heard learned counsel for the petitioner and the learned AGA and perused the record.

The arrest of the petitioner was stayed by an interim order passed in this writ petition in respect of Case Crime No.86 of 2008, under sections 420 and 506 IPC, P.S. Anwarganj, District Kanpur Nagar. The investigation had not been stayed. It is not known whether the investigation has been completed yet or not.

In the case of Mahendra Lal Das v State of Bihar: 2002 SCC (Crl) 110, it has been held by the Supreme Court that while interference by courts at investigation stage is not called for, the investigating agency cannot be given latitude of protracting the conclusion of the investigation without any limit of time.

No useful purpose would be served in keeping this petition pending any longer. Accordingly, we dispose of this writ petition with the following directions:

1. The investigation will be completed within three months of the date on which a certified copy of this order along with a self-attested copy of this writ petition is presented before the investigating officer;
2. The petitioner will not be arrested during pendency and for the purpose of investigation, provided a certified copy of this order is presented before the police officer as directed above within 15 days from today;
3. Two copies of the order shall also be presented within 15 days before the S.S.P/S.P and CJM concerned who shall monitor the investigation as provided by the Apex Court in Sakiri Vasu v. State of U.P.: AIR 2008 SC 907 and ensure that the investigation is completed within the time stipulated by the High Court;
4. If copies of the order are not presented within the time aforesaid before the Investigating officer, S.S.P./ S.P. and CJM, the stay of arrest will not operate;

5. The accused will cooperate with the investigation and in case of non- cooperation or otherwise if the investigating officer is of the opinion that for any other valid reason the arrest of accused is necessary during or for the purpose of investigation, it will be open to the investigating officer to apply in this writ petition by means of a miscellaneous giving details of non-cooperation as also details of what kind of cooperation is expected by the accused for completing investigation or why the arrest is otherwise necessary to that interim stay of arrest granted hereby may be vacated;

6. In case the investigation is not completed within the aforesaid time of three months, for some unavoidable reason or due to slackness on the part of the investigating officer the CJM concerned shall inform this Court, with the reason for the delay in concluding the investigation within the time specified above. The Registrar General shall place the information in pending where this Court inter alia is monitoring matters with respect to writ petitions which have been disposed off with directions for completing the investigation in three months.

7. If a report under section 173(2) Cr.P.C. is decided to be submitted to the Court of Magistrate, in column no. 3 of the prescribed form of the report under section 173(2) Cr.P.C. it will be mentioned that the accused have not been arrested on account of the stay order granted by this Court and the Magistrate shall take expeditious steps for appearance/ arrest of the accused;

8. If the accused appears before the Court concerned within 3 weeks of the submission of the police report under section 173(2) Cr.P.C. and applies for bail, the bail application shall be disposed of expeditiously in accordance with the observations of the Full Bench of this Court in Amrawati and another v. State of U.P., 2004(57) ALR 290, affirmed by the Supreme Court in Lal Kamendra Pratap Singh v. State of U.P.: 2009 (2) Crime 4 (SC), and reiterated by the Division Bench of this Court in Sheoraj Singh @ Chuttan v. State of U.P. & Others: 2009(65) ACC 781.

The writ petition is disposed of with the aforesaid directions.

Order Date :- 1.7.2010 Gaurav