

Allahabad High Court

Hare Ram Yadav @ Munna Yadav And ... vs State Of U.P. And Another on 22 January, 2010

Court No. - 54

Case :- APPLICATION U/S 482 No. - 1457 of 2010

Petitioner :- Hare Ram Yadav @ Munna Yadav And Others

Respondent :- State Of U.P. And Another

Petitioner Counsel :- Jagdish Singh

Respondent Counsel :- Govt. Advocate

Hon'ble Ravindra Singh,J.

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

This application has been filed by the applicant with a prayer that the bail application of the applicant in complaint case no. 1009 of 2008 under section 498-AI.P.C. and section 3/4 of D.P. Act P.S. Pakari district Ballia may be disposed of in view of Lal Kamendra Pratap Singh Versus State of U.P. on 23.3.2009 in Criminal Appeal No. 538 of 2009. Considering the facts, it is directed that the bail application of the applicants shall be heard and disposed of in view of Smt. Amrawati and another Vs. State of U.P. 2005 Cr.L.J. 755.

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The Full Bench of this court has held in the aforementioned case;

1. Even if a cognizable offence is disclosed in the FIR or complaint the arrest of the accused is not a must, rather the police officer should be guided by the decision of the Supreme Court in Joginder Kumar Vs. State of U.P. 1994 Cr.L.J. 1981, before deciding whether to make an arrest or not.
2. The High Court should ordinarily not direct any Subordinate Court to decide the bail application the same day, as that would be interfering with the judicial discretion of the court hearing the bail application. However, as stated above, when the bail application is under section 437 Cr.P.C. ordinarily the Magistrate should himself decide the bail application the same day, and if he decides in a rare and exceptional case not to decide it on the same day, he must record his reasons in writing. As regards the application under section 439 Cr.P.C. it is in the discretion of the learned Sessions Judge, considering the facts and circumstances whether to decide the bail application the same day or not, and it is also in his discretion to grant interim bail the same day subject to the final decision on the bail application later.

The above view has been approved by the Hon'ble Apex Court in Lal Kamendra Pratap Singh Versus State of U.P. on 23.3.2009 in Criminal Appeal No. 538 of 2009.

With this direction, this application is finally disposed of. Order Date :- 22.1.2010 N.A.