

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8305 of 2023

Petitioner :- Bramhshankar

Respondent :- State Of U.P. Thru. Prin. Secy. Home Sectt. Lko. And Others

Counsel for Petitioner :- Ram Ji Trivedi, Shraddha Tripathi

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Heard learned counsel for the petitioner, learned A.G.A. for the State/respondents and perused the material placed on record.

This writ petition has been filed with the following main prayers :-

"(i) Issue a Writ, Order or direction in the nature of certiorari and quash the impugned F.I.R. dated 25.07.2023, bearing F.I.R. No.0428 of 2023, in P.S. - Ganga Ghat, District - Unnao, Under Section 2/3 of U.P. Gangster Anti- Social Activities Act, 1986 (Annexure No.-1) with his Writ Petition.

(ii) To issue a writ, Order or direction in the nature of Mandamus, commanding and directing the Opposite Parties not to harass and not to arrest the Petitioner in the impugned F.I.R. dated 25.07.2023, bearing F.I.R.- 0428 of 2023, in P.S. - Ganga Ghat, District - Unnao, Under Section 2/3 of U.P. Gangster Anti- Social Activities Act, 1986 contained in Annexure No.-1 in this Writ Petition."

Learned counsel for the petitioner says that he has just received copy of the counter affidavit. He prays for time to file rejoinder affidavit.

We have gone through the F.I.R. and additional instructions that have been made available by the Inspector, Police Station Kotwali Sadar, District Unnao. The additional instructions relate to the supplementary affidavit that was filed by the petitioner on the last date of the hearing of the matter. It is evident that all the arguments raised by learned counsel for the petitioner relates to the base case on the basis of which the impugned F.I.R. has been filed. He says that anticipatory bail was granted in the base case.

This court has gone through the F.I.R. and also the definition of the "gang" and "gangsters" as is given in the definition clause which has been pointed out by learned counsel for the petitioner. There are several sub clauses to Clause 2 (b) of the U.P. Gangsters and Anti-Social Activities (Prevention Act), 1986, which are quoted herein below :-

"2(b)"Gang" means a group of persons, who acting either singly or collectively, by violence, or threat or show of violence, or intimidation, or coercion or otherwise with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person, indulge in anti-social activities, namely-

(i) offences punishable under Chapter XVI, or Chapter XVII or Chapter XXII of the Indian Penal Code, 1860 (Act No. 45 of 1860), or

(ii) distilling or manufacturing or storing or transporting or importing or exporting or selling or distributing any liquor, or intoxicating or dangerous drugs, or other intoxicants or narcotics or cultivating any plant, in contravention of any of the provisions of the U.P. Excise Act, 1910 (U.P. Act No. 4 of 1910), or the Narcotic Drugs and Psychotropic Substances Act, 1985 (Act No. 61 of 1985), or any other law for the time being in force, or

(iii) occupying or taking possession of immovable property otherwise than in accordance with law, or setting-up false claims for title or possession of immovable property whether in himself or any other person, or

(iv) preventing or attempting to prevent any public servant or any witness from discharging his lawful duties, or

(v) offences punishable under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Act No. 104 of 1956), or

(vi) offences punishable under Section 3 of the Public Gambling Act, 1867 (Act No. 3 of 1867), or

(vii) preventing any person from offering bids in auction lawfully conducted, or tender, lawfully invited, by or on behalf of any Government department, local body or public or private undertaking, for any lease or rights or supply of goods or work to be done, or

(viii) preventing or disturbing the smooth running by any person of his lawful business, profession, trade or employment

or any other lawful activity connected therewith, or

(ix) offences punishable under Section 171-E of the Indian Penal Code, 1860 (Act No.45 of 1860), or in preventing or obstructing any public election being lawfully held, by physically preventing the voter from exercising his electoral rights, or

(x) inciting others to resort to violence to disturb communal harmony, or

(xi) creating panic, alarm or terror in public, or

(xii) terrorising or assaulting employees or owners or occupiers of public or private undertakings or factories and causing mischief in respect of their properties, or

(xiii) inducing or attempting to induce any person to go to foreign countries on false representation that any employment, trade or profession shall be provided to him in such foreign country, or

(xiv) kidnapping or abducting any person with intent to extort ransom, or

(xv) diverting or otherwise preventing any aircraft or public transport vehicle from following its scheduled course;

[(xvi) offences punishable under the Regulation of Money Lending Act, 1976;

(xvii) illegally transporting and/or smuggling of cattle and indulging in acts in contravention of the provisions in the Prevention of Cow Slaughter Act, 1955 and the Prevention of Cruelty to Animals Act, 1960;

(xviii) human trafficking for purposes of commercial exploitation, bonded labour, child labour, sexual exploitation, organ removing and trafficking, beggary and the like activities.

(xix) offences punishable under the Unlawful Activities (Prevention) Act, 1966:

(xx) printing, transporting and circulating of fake Indian currency notes;

(xxi) involving in production, sale and distribution of spurious drugs;

(xxii) involving in manufacture, sale and transportation of arms and ammunition in contravention of Sections 5, 7 and 12 of the Arms Act, 1959;

(xxiii) felling or killing for economic gains, smuggling of products in contravention of the Indian Forest Act, 1927 and Wildlife Protection Act,

1972;

(xxiv) *offences punishable under the Entertainment and Betting Tax Act, 1979;*

(xv) *indulging in crimes that impact security of State, public order and even tempo of life."*

We have gone through clause 2 (b) of the U.P. Gangsters and Anti-Social Activities (Prevention Act), 1986, wherein definition of the 'gang' has been given. We have also gone through the F.I.R. in the base case and also the F.I.R. as has been lodged and impugned in this writ petition under the Gangsters Act.

We find no good ground to show interference in the matter.

Accordingly, the writ petition is hereby **dismissed**.

Order Date :- 11.12.2023

ML/-