

Court No. - 82

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20854 of 2025

Applicant :- Shahnawaz Rana

Opposite Party :- State of U.P.

Counsel for Applicant :- P.K. Singh, Zain Abbas

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Shri P. K. Singh, learned counsel for the applicant and Shri Manish Goyal, learned A.A.G. assisted by Shri Roopak Chaubery, learned A.G.A. for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.95 of 2025, under Sections 2/3 U.P. Gangsters & Anti Social Activities (Prevention) Act, 1986, Police Station Civil Lines, District Muzaffarnagar, during pendency of the trial in the court below.

Brief facts of the case:-

3. FIR of the present case was lodged on 14.04.2025 against applicant and four others on the basis of a gang chart. In the gang chart, two base cases have been shown against the applicant. First case relates to Case Crime No.363 of 2024, under Sections 406, 420, 467, 468, 471, 120-B I.P.C., P. S. Civil Lines, District Muzaffarnagar and second case relates to Case Crime No.153 of 2025, under Sections 132,

352, 351(2), 221, 224 B.N.S. P. S. Nai Mandi, District Muzaffarnagar. As per the gang chart, applicant is the gang leader, who along with his other gang members indulged in anti social activities and he committed theft of revenue of more than 27 crore.

Argument advanced on behalf of the applicant:-

4. Learned counsel for the applicant submits that applicant is respected member of the society and on the basis of false allegations, he has been roped in the present matter. He further submits, applicant is neither leader nor member of any gang. He further submits, from the gang chart, it reflects, two base cases have been shown against the applicant in the gang chart and both the base cases do not relate to heinous offences and in both the base cases applicant is on bail.

5. He further submits that S.S.P. concerned on 11.04.2025 forwarded the gang chart and thereafter D.M. concerned also on the same day i.e. 11.04.2025 approved the gang chart and therefore, it reflects, authorities concerned failed to apply their independent minds and mechanically approved the gang chart, which is in contravention of mandatory Rules 16 and 17 U.P. Gangster & Anti Social Activities (Prevention) Rules, 2021.

6. He further submits that even merely on the basis of two base cases of non-heinous offences, it cannot be said that applicant is a gangster.

7. He further submits that however, apart from the present case and two base cases shown in the gang chart, applicant is having criminal history of 21 other cases but his entire criminal history has been duly explained in para 12 of the affidavit filed in support of the instant bail application.

8. He further submits that out of 21 cases, in six cases including a case under Section 302 I.P.C., which was of the year 1998, applicant has already been acquitted and proceedings of two cases have been quashed by this court.

9. He further submits that in four cases, applicant is on bail and in three cases, final report has been submitted after investigation. He further submits, in one case each proceedings pending against him has been dropped/stayed and one case relates to non-cognizable offence and in one another case, he was neither named in the FIR nor any charge-sheet has been filed against him.

10. He further submits that except cases relate to offences under Sections 302, 307, 376 I.P.C. i.e. three cases, all the other cases related to non-heinous offences and in above mentioned three cases, applicant has already been acquitted.

11. He further submits that out of 21 cases, 19 cases were more than a decade old and some cases were even more than two decades old.

12. He further submits that considering the criminal

antecedents of the applicant, it is apparent that in all the cases he has been falsely made accused and merely on the basis of such criminal antecedents of the applicant, it is not appropriate to withhold his instant bail application.

13. He further submits that however Section 19(4) U.P. Gangsters & Anti Social Activities (Prevention) Act (hereinafter referred as 'Gangsters Act') states that no person an accused of an offence punishable under the provisions of Gangsters Act shall be released on bail unless: (a). Public Prosecutor has been given opportunity to oppose his release and (b) The court is satisfied that there are reasonable grounds for believing that he is not guilty of such offences and he is not likely to commit any offence while on bail but considering the nature of base cases shown in the gang chart, it cannot be said that applicant is a gangster and he can be held guilty for offence under Gangsters Act.

14. He further submits that as far as criminal history of applicant is concerned, the majority of cases are quite old one and in majority of the cases, either applicant has been acquitted or proceedings have been quashed/stayed/dropped, therefore, it cannot be said that after release on bail, applicant is likely to commit any offence.

15. He further submits that therefore under the pretext of Section 19(4) U.P. Gangsters Act, bail application of applicant should not be dismissed.

16. He further submits that however, in the present matter applicant is in jail since 19.04.2025 i.e. for last three months but he is in incarceration since 17.12.2024 i.e. for last more than seven months with regard to base case relates to Case Crime No.363 of 2024.

17. He further submits that therefore considering the above facts, applicant should be enlarged on bail.

Submission advanced on behalf of the State-respondent:

18. Per contra; learned A.A.G. appearing on behalf of the State-respondent vehemently opposed the prayer for bail and submits, however, in gang chart only two base cases have been shown against the applicant but apart from the present case and two base cases shown in the gang chart, he is having huge criminal history of 22 other cases and details of his criminal history have been disclosed in Annexure-1 of the counter affidavit filed by the State.

19. He further submits that after considering the criminal antecedents of the applicant, it cannot be said that after release on bail, he will not commit any offence.

20. He further submits that law it settled that even on the basis of solitary case shown in the gang, an FIR can be lodged under the provisions of U.P. Gangsters Act and there is no material available on record, on the basis of which, this Court can infer

that applicant is not guilty.

21. He further submits that however, in both the cases shown in the gang chart, applicant is on bail but this cannot be ground to release him on bail in the present matter.

22. He further submits that therefore, considering the criminal antecedents of the applicant and provisions of Section 19(4) U.P. Gangsters Act, applicant should not be released on bail.

23. He however could not dispute the fact that out of 22 cases mentioned as criminal antecedents of applicant in the counter affidavit filed by the State, two cases were of complaint case and except present case and two base cases shown in the gang chart, all the remaining cases were old one.

24. He further could not dispute the fact that majority of the cases were more than a decade old and number of cases were even more than two decades old.

25. He further could not dispute the fact that in number of cases, applicant has been either acquitted or proceedings pending against him either quashed/stayed/dropped or final report has submitted.

Analysis:-

26. I have heard both the parties and perused the material available on record.

27. Applicant has been made accused under the

provisions of U.P. Gangsters Act on the basis of two base cases shown in the gang chart. Out of two cases, one case is of the year 2024, which relates to offences under Sections 406, 420, 467, 468, 471, 120-B I.P.C. and another base case is of the year 2025, which relates to offences under Sections 132, 352, 351(2), 221, 224 B.N.S., therefore, it reflects that both the base cases disclosed in the gang chart do not relate to heinous offences and are triable by Magistrate.

28. Further, from the gang chart, it reflects, although C.O. concerned forwarded the gang chart for approval but it could not be reflected that he independently applied his mind. Similarly, gang chart further shows, S.S.P. concerned also forwarded the gang chart for approval on 11.04.2025 and same day i.e. 11.04.2025 D.M. concerned approved the same but it appears, neither S.S.P. nor D.M. applied their minds independently and mechanically they forwarded and approved the gang chart respectively.

29. The Apex Court in case of **Vinod Bihari Lal Vs. State of U.P. & Another** decided on 23.05.2025 in Criminal Appeal Nos.777-778 of 2025 in para 54 observed as under:-

54. An independent application of mind cannot be presumed unless it is demonstrable from the record that the approving authority has, in letter and spirit, independently considered all the materials that culminated in the preparation and placement of the gang chart before him. While the correctness of such application of mind may lie beyond the scope of judicial scrutiny, the absence thereof certainly does not. A mechanical or routine exercise of power by the recommending, forwarding, and approving authorities respectively is impermissible, as it directly impinges upon the

liberty of citizens.

30. Further, from the gang chart, it could not be reflected that gang chart of the present case was approved after due discussion in a joint meeting comprising the District Magistrate and S.S.P., which was essential by virtue of Rule 5(3)(a) of U.P. Gangster & Anti Social Activities (Prevention) Rules, 2021.

31. Further, however, apart from the present case and two base cases shown in the gang chart, applicant is having history of 22 other cases but it reflects that out of 22 cases, two cases were complaint cases.

32. Further, however three cases relate to heinous offences under Sections 302, 307, 376 I.P.C. but in all these three cases, applicant has already been acquitted. Further, apart from these cases applicant has also been acquitted in three other cases.

33. Further, out of remaining fourteen cases in number of cases, either charge-sheet has not been filed against applicant or final report has been submitted or even proceedings pending against him has been stayed/dropped. Further, even these cases do not appear to be cases related to heinous offences. Further, majority of the cases were old one, even more than a decade old. Some cases are even two decades old.

34. Further, however, as per Section 19(4) U.P. Gangsters Act, an accused shall not be released on

bail if he is an accused under the provisions of U.P. Gangsters Act unless Court is satisfied that he is not guilty and he is not likely to commit any offence while on bail but considering the fact that it reflects, there are violations of mandatory Rules of 2021 it can be inferred that prima-facie it appears, applicant is not guilty.

35. Further, however, applicant is having huge criminal history but considering the nature of his criminal antecedents and the fact that all these cases were quite old one and in number of cases, he has been either acquitted or final report has been submitted or even proceedings has been either stayed or dropped, it cannot be said that while on bail, he is likely to commit offence.

36. Further, however, in the present matter applicant is in jail since 19.04.2025 i.e. for last four months but he is in incarceration since 17.12.2024 i.e. for last eight months with regard to base case relates to Case Crime No.363 of 2024.

37. Further, law is settled, unless proven guilty, an accused is deemed to be innocent and bail application should not be dismissed for punitive purpose.

38. Therefore considering the above facts and circumstances of the case, applicant is entitled to be released on bail.

39. Accordingly, without expressing any opinion on

the merits of the case, the instant bail application is **allowed.**

40. Let the applicant- **Shahnawaz Rana** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

41. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

42. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 14.08.2025

Zafar