



2025:AHC:171967

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 27374 of 2024

RESERVED ON: 27.8.2025

DELIVERED ON:24.9.2025

Rameshwar Singh Yadav

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Praveen Kumar Singh, Syed Imran
Ibrahim
Counsel for Opposite Party(s) : G.A.

Court No. - 82

HON'BLE SAMEER JAIN, J.

1. Heard Sri Syed Imran Ibrahim, learned counsel for the applicant and Sri Manish Goyal, learned Additional Advocate General assisted by Sri Arvind Kumar, learned AGA for the State.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.357 of 2023 under Section 2/3 U.P.Gangsters Act, Police Station Jaithra, District Etah during pendency of the trial.

Factual Matrix of the case:

3. FIR of the present case was lodged on 7.11.2023 under Section 2/3 U.P.Gangsters Act against the applicant and three others on the basis of gang chart.

4. According to the FIR, applicant was gang leader and he along with his gang members including his brother, i.e., co-accused Jogendra Singh Yadav indulged in anti social activities.

5. FIR further suggests that applicant and other members of the gang used to grab the private and government lands and they used to sexually exploit the ladies and due to their political influence and threat nobody is ready to give evidence against them.

6. From the gang chart it reflects that in the gang chart total eight cases have been shown against the applicant as base cases and out of eight cases one case relates to offence under Section 376 IPC arising out of Case Crime No. 118 of 2023.

Submission advanced by learned counsel for the applicant:

7. Learned counsel for the applicant submits that applicant is Ex-MLA and he belongs to Samajwadi Party, therefore, on the basis of false allegations he along with his other family members has been implicated in the present matter.

8. He further submits that applicant is responsible person, who actively participated for social cause and he never involved in any anti social activities.

9. He further submits that in the gang chart total eight cases have been shown against the applicant but out of eight cases only one case, relates to serious offence , i.e., offence under Section 376 IPC and other cases relate to non-heinous offences and in these seven cases applicant is on bail.

10. He further submits that FIR relates to offence under Section 376 IPC, has been lodged against the applicant after several years and this fact itself suggests that only due to political background of the applicant with the connivance of local political leaders who belong to ruling Party applicant has been made accused in this case.

11. He further submits that even from the gang chart of the present case it reflects that it is against the Uttar Pradesh Gangster and Anti-social Activities (Prevention) Rules, 2021. He next submits that as per Rule 5(3)(a) the gang chart will not be approved summarily but after due discussion in a joint meeting of the Commissioner of Police/ District Magistrate/ Senior Superintendent of Police/ Superintendent of Police but from the gang chart it reflects that Superintendent of Police approved the gang chart on 6.11.2023 and Senior Superintendent of Police and District Magistrate approved the gang chart on 7.11.2023 therefore, it is apparent that the gang chart of the present case has not been approved in the joint meeting and, therefore, it is against the Rule 5(3) of Rules,2021, therefore, gang chart of the present case is bad in the eye of law.

12. He placed reliance on the judgment of the Division Bench of this

Court passed in the case of **Sanni Mishra @ Sanjayan Kumar Mishra Vs. State of U.P. and others, 2023 SCC On-Line All 2975.**

13. He further submits that even from the gang chart it reflects that without application of mind in routine manner the gang chart has been approved which is also against Rule 17 of the Rules, 2021.

14. He next submits that Gangsters Rules, 2021 are mandatory in nature and these rules introduced as provisions of U.P. Gangsters Act are stringent and, therefore, rules and provisions of Act both must be strictly adhered to but in the present matter by ignoring the mandatory Rules of 2021 gang chart of the present case has been approved.

15. He next submits that however, apart from the present case, applicant is having a very long criminal antecedents of 100 cases but his entire criminal antecedents have been duly explained in tabular form in para-25 of the affidavit filed in support of the instant bail application.

16. He further submits that in 20 cases applicant has already been acquitted and in 25 cases after investigation final reports have been submitted and six cases have become infructuous by efflux of time.

17. He further submits that 14 cases have been withdrawn with the leave of the Court and in three cases including two cases under Section 302 IPC applicant has already been exonerated and five cases have been wrongly mentioned and in these cases applicant is not even accused and in three cases proceedings of the case have been stayed.

18. He further submits that in remaining cases applicant is on bail.

19. He further submits that out of 100 cases 72 cases were from the year 1978 to 2012 and, therefore, majority of the cases were old one.

20. He further submits that therefore, from the criminal antecedents of the applicant it is apparent that only due to political background of the applicant he is being continuously falsely implicated in criminal cases and merely due to his criminal antecedents it is not proper to withheld the instant bail application of the applicant.

21. He further submits that as per the provisions of Section 3 of U.P.Gangsters Act a gangster shall be punished with imprisonment for not less than two years which may extend upto 10 years and in the present matter applicant is in jail since November, 2023, i.e., for the last 22 months and, therefore, he has already served almost minimum sentence

provided under Section 3(1) U.P.Gangsters Act.

22. He further submits, therefore, considering the above facts applicant may be enlarged on bail.

Submission advanced on behalf of the State:

23. Per contra, learned AAG opposed the prayer for bail and submits that applicant is a hardened criminal and considering his criminal history and base cases he has rightly been made accused in the present matter.

24. He further submits that prima facie from the face of the gang chart it could not be reflected that while approving the gang chart the authorities concerned violated the Rules of 2021.

25. He next submits that from the perusal of the gang chart it is apparent that after due application of mind it was approved.

26. He further submits that even from the gang chart it could not be reflected that the gang chart has not been approved in accordance with Rule 5(3) of the Rules as it reflects that on 7.11.2023 both Senior Superintendent of Police and District Magistrate concerned approved the gang chart.

27. He next submits that in any case, the compliance and non-compliance of Rules, 2021 can only be properly adjudicated by trial court during trial.

28. He further submits that in the gang chart there are total eight cases against the applicant including a case of rape and, therefore, as per definition of U.P.Gangster Act it cannot be said that base cases do not attract the provisions of U.P.Gangsters Act.

29. He further submits that as per Section 19(4) U.P.Gangsters Act an accused, who is detained under Gangsters Act cannot be released on bail unless and until court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and he is not likely to commit any offence while on bail.

30. He further submits that there is no material available on record which can suggest that there are reasonable grounds for this Court to believe that applicant is not guilty.

31. He further submits that as applicant is having criminal history of 100 cases, therefore, it also cannot be said that he is not likely to commit any offence while on bail.

32 He further submits that provisions of Section 19(4) U.P.Gangsters Act

are mandatory in nature and by ignoring these provisions, applicant should not be released on bail.

33. He further submits that even law is settled, while deciding the bail application, criminal antecedents of the accused cannot be ignored and criminal history of accused is relevant at this stage.

34. He further submits that applicant involved in anti social activities since 1978 and even till date he indulged in commission of criminal offences.

35. He further submits that after 2023 no other case is registered against the applicant only because he is detained in jail.

36. He further submits that there is every possibility that if applicant is released on bail then he will again commit criminal offence and possibility can also not be ruled out that he will start tampering the prosecution evidence and it will be very difficult for the witnesses to depose against him in the cases in which trials are pending.

37. He further submits that considering the long criminal antecedents of the applicant it is apparent that applicant is even at flight risk.

38. He further submits that therefore considering the above facts, applicant should not be released on bail.

Analysis and conclusion:

39. I have heard learned counsel for the parties and perused the record of the case.

40. Applicant is Ex-MLA and he has been detained in jail in the present matter under the provisions of U.P.Gansters Act.

41. As per the gang chart of the case, total eight base cases have been shown against the applicant and these cases were of the year 2022-2023. Out of eight cases, one case is of rape and other cases prima facie appears to be the cases relate to non-heinous offences.

42. It further reflects that except the case of rape in all other base cases applicant is on bail and his bail application in rape case is pending before this Court.

43. The State of Uttar Pradesh in the year 2021 framed Gangsters Rules and as per Rule 5(3)(a) the gang chart of an accused must be approved in

the joint meeting of District Magistrate/Senior Superintendent of Police/Superintendent of Police concerned.

44. From the gang chart it reflects that however, Senior Superintendent of Police/District Magistrate concerned approved the gang chart on 7.11.2023 but Superintendent of Police approved the gang chart on 6.11.2023, therefore, it reflects that gang chart of the present case has not been approved in the joint meeting of Superintendent of Police/Senior Superintendent of Police/District Magistrate which is against the Rule 5(3)(a) of Rules, 2021.

45. In view of the observation made by the Division Bench of this Court in the case of **Sanni Mishra (supra)** on which reliance has been placed by learned counsel for the applicant, the provisions of U.P.Gangsters Act are stringent and are required to be interpreted strictly so as to prevent the misused on the part of the State Authority. It further reflects, after considering the violation of Rules, 2021 Division Bench of this Court even quashed the FIR. Therefore, Rules 2021 are mandatory.

46. From the case of **Vinod Bihari Lal Vs. State of U.P. and another, 2025 SCC OnLine SC 1216** it reflects that the Gangster Rules, i.e., Rule of 2021 are mandatory to be followed before approval of gang chart.

47. Further, from the gang chart it reflects that along with applicant co-accused Rahul @ Neelu Gupta has also been made accused by showing one of the gang member but when he challenged the FIR of the present case before Division Bench of this Court in Criminal Misc.Writ Petition No.6833 of 2024 then his arrest has been stayed by this Court after considering the submissions advanced by his counsel that there is violation of Rule 7 of Rules, 2021.

48. Further, however, apart from the present case applicant is having criminal history of 100 cases including 8 base cases but his entire criminal history has been explained in tabular form in paragraph-25 of the affidavit filed in support of the instant bail application.

49. It reflects, in 20 cases applicant has already been acquitted and in 25 cases after investigation final reports have been submitted and six cases have become infructuous by efflux of time.

50. Further, 14 cases have been withdrawn with the leave of the Court and in three cases including two cases under Section 302 IPC applicant has already been exonerated and five cases have been wrongly mentioned and

in these cases applicant is not even accused and in three cases proceedings of the case have been stayed and in remaining cases applicant is on bail.

51. Further, out of 100 cases 72 cases were from the year 1978 to 2012 and, therefore, majority of the cases were old one.

52. As per Section 19(4) U.P.Gangsters Act an accused, who is detained under the provisions of U.P.Gangsters Act shall not be released on bail unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty and he is not likely to commit any offence while on bail.

53. At this stage, however, no definite finding can be given that applicant is not guilty but considering the fact that prima facie it appears that mandatory Rules of 2021 have not been followed, therefore, considering the law laid down by the Apex Court in the case of **Vinod Bihari Lal (supra)** and Division Bench of this Court in the case of **Sanny Mishra (supra)**, this Court even at this stage can reasonably believe that applicant is not guilty.

54. Further, however, as per the second condition of Section 19(4) U.P.Gangsters Act, the Court should also be satisfied that an accused, who is detained under the provisions of Gangsters Act is not likely to commit any offence while on bail and applicant is having long criminal history but in view of this Court if prima facie there are reasons to believe that he is not guilty then merely on this basis his bail application should not be withheld.

55. However, this Court finds merits in the argument advanced by learned AAG that criminal history of an accused is relevant at the time of deciding his bail application but if otherwise case of bail is made out then merely on the basis of his criminal history ordinarily his prayer of bail should not be denied.

56. The Apex Court in the case of **Ayub Khan Vs. State of Rajasthan, 2024 SCC On-Line SC 6763** observed that the presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him and if an accused makes out a strong prima facie case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail.

57. Further, stringent provisions of Section 19(4) U.P.Gangsters Act are

pari materia with the provisions of Section 37 of NDPS Act. The Apex Court in the case of **Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352** after considering Section 37 NDPS Act held that on the ground of long incarceration which is violative of Article 21 of the Constitution of India the Constitutional Court can release an accused on bail even in Special Act cases like NDPS Act and Section 37 of NDPS Act can not create bar for Constitutional Court to release an accused on bail after considering his long incarceration.

58. In case at hand, applicant is in jail since November, 2023, i.e., for the last 22 months. Therefore, even considering his long incarceration, he therefore, can be released on bail even in the present matter.

59. Further, under Section 3(1) U.P.Gangsters Act minimum sentence of two years has been provided as punishment and applicant has already served almost minimum sentence as he is in jail for last 22 months.

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

61. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

62. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

63. Let the applicant-**Rameshwar Singh Yadav** 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.

64. 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.

65. 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.

(Sameer Jain,J.)

September 24, 2025

SKM