



2025:AHC:174622-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. WRIT PETITION No. - 16946 of 2024

Navneet Sachan Petitioner(s)

Versus

State of U.P. And 4 Respondents(s)
Others

Counsel for Petitioners(s)	: Abhishek Kumar Mishra, Chandrakesh Mishra, Sr. Advocate
Counsel for Respondent(s)	: G.A.

WITH

APPLICATION U/S 528 BNSS No. - 40591 of 2024

Navneet Sachan Petitioner(s)

Versus

State of Up And 2 Respondents(s)
Others

Counsel for Petitioners(s)	: Abhishek Kumar Mishra, Chandrakesh Mishra, Sr. Advocate
Counsel for Respondent(s)	: G.A.

WITH

CRIMINAL MISC. WRIT PETITION NO. - 17602 OF 2024

Shahbaj Alam Khan Petitioner(s)

Versus

State of Up And 3 Respondents(s)
Others

Counsel for Petitioners(s)	: Upendra Upadhyay
Counsel for Respondent(s)	: G.A.

WITH

CRIMINAL MISC. WRIT PETITION NO. - 18422 OF 2024

Faraz Khan Petitioner(s)

Versus

State of Up And 3 Respondents(s)
Others

Counsel for Petitioners(s)	: Ayush Mishra, Prabha Shanker Mishra
Counsel for Respondent(s)	: G.A.

Court No. - 43

HON'BLE SIDDHARTHA VARMA, J.
HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Daya Shankar Mishra, learned Senior Advocate assisted by Sri Chandrakesh Mishra and Sri Abhishek Mishra, learned counsel for the petitioner in CRIMINAL MISC. WRIT PETITION No. - 16946 of 2024 and in APPLICATION U/S 528 BNSS No. - 40591 of 2024; Sri Upendra Upadhyay, learned counsel for the petitioner in CRIMINAL MISC. WRIT PETITION NO. - 17602 OF 2024; Sri Prabha Shanker Mishra, learned counsel for the petitioner in CRIMINAL MISC. WRIT PETITION NO. - 18422 OF 2024 and Sri Manish Goyal, learned Additional Advocate General assisted by Sri J.K. Upadhyay and Sri Rupak Chaube, learned counsel for the State.
2. The petitioner has challenged the First Information Report dated 31.8.2024, under Section 2/3 of U.P. Gangster and Anti-Social Activities

(Prevention) Act, 1986 (*hereinafter referred to as the “Gangster Act, 1986”*) which had given rise to Case Crime No. 0556 of 2024, Police Station – Karvi Kotwali Nagar, District - Chitrakoot.

3. Sri Daya Shankar Mishra, learned Senior Advocate assisted by Sri Chandrakesh Mishra and Sri Abhishek Kumar Mishra, learned counsel for the petitioner has argued that the first information report which was lodged under Section 2/3 of the Gangster Act, 1986 is dependent on the rules of Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Rules, 2021 (*hereinafter referred to as the “Gangster Rules, 2021”*). He has submitted that as per the rules, there has to be, before the lodging of the first information report, a preparation of the gang chart which is as per Rules 5(1) of the Gangster Rules, 2021. The In-charge of police station has to prepare a gang chart wherein are mentioned the criminal details of a particular gang. The gang chart thereafter is presented as per Rule 5(2) of the Gangster Rules, 2021 to the District Head of Police after a clear recommendation of the Additional Superintendent of Police mentioning therein the detailed activities in relation to all the persons of the said gang. Learned counsel for the petitioner further submitted that as per Rule 5(3)(a) of the Gangster Rules, 2021 before a gang chart is prepared it has to be approved, but not summarily. It is approved only after a “due discussion” is done in a joint meeting of the Commissioner of Police, District Magistrate, Senior Superintendent of Police and Superintended of Police. The other provisions with regard to how the gang chart has to be prepared are contained in Rules 5(3)(b), 5(3)(c), 5(3)(d) and 5(3)(e) of the Gangster Rules, 2021.

4. Since learned counsel for the petitioner heavily relied upon Rule 5 of the Gangster Rules, 2021, the same is being reproduced here as under:-

“5. General Rules.-(1) To initiate proceedings under this Act, the concerned Incharge of Police Station/Station House Officer/Inspector shall prepare a gang-chart mentioning the details of criminal activities of the gang.

(2) The gang-chart will be presented to the district head of police after clear recommendation of the Additional Superintendent of Police mentioning the detailed activities in relation to all the persons of the said gang.

(3) The following provisions shall be complied with in respect of gang-charts:

*(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.*

(b) There may be no gang of one person but there may be a gang of known and other unknown persons and in that form the gang-chart may be approved as per these rules.

(c) The gang-chart shall not mention those cases in which acquittal has been granted by the Special Court or in which the final report has been filed after the investigation. However, the gang-chart shall not be approved without the completion of investigation of the base case.

(d) Those cases shall not be mentioned in the gang-chart, on the basis of which action has already been taken once under this Act.

(e) A separate list of criminal history, as given in Form No.-4, shall be attached with the gang-chart detailing all the criminal activities of that gang and mentioning all the criminal cases, even if acquittal has been granted in those cases or even where final report has been submitted in the absence of evidence.

Along with the above, a certified copy of the gang register kept at the police station shall also be attached with the gang-chart. In addition to the above, the information of crime and gang members mentioned in the gang-chart will also be updated on Interoperable Criminal Justice System (ICJS) portal and Crime and Criminal Tracking Network System (CCTNS)."

5. Learned counsel for the petitioner to make the record straight submitted that on the basis of the base case numbered as Case Crime No. 88 of 2023 for which the first information report was lodged on 10.2.2023 the gang-chart vis-a-vis the petitioner was prepared. In the base case the petitioner was not named but only one Prahlad Sahani had mentioned his name and he was implicated in the Case Crime No. 88 of 2023. Therefore on the basis of it a first information report was lodged under Section 3/2 of the Gangster Act, 1986. On 29.1.2024 when the first information report had given rise to Case Crime No. 0079 of 2024, it was challenged before the High Court by means of a writ petition being Criminal Misc. Writ Petition No. 2094 of 2024 (Navneet Sachan vs. State of U.P. And 2 Others) and the High Court by an order dated 15.5.2024 had quashed the first information report dated 29.1.2024. However, in the judgment and order passed by the High Court dated 15.5.2024, it was provided that the respondents could initiate fresh proceedings against the petitioner if it was "so required" after following the due procedure of law.

6. Learned counsel for the petitioner submits that to initiate the proceeding again under the Gangster Act, the In-charge of Police had prepared a gang chart and in it had mentioned the details of the criminal activities of the gang and had presented it to the District Head of the

Police on 25.8.2024. This document has annexed as Annexure No. CA-3 to the counter affidavit filed in the writ petition. In the report which the Sub-Inspector Thana Karvi Kotwali Nagar, District Chitrakoot had submitted on 25.8.2024 it was stated that in the Jail of Chitrakoot where Abbas Ansari was arrested, his wife Nikhat Bano was meeting him illegally and on 10.2.2023 a secret information was received that illegal activities were going on in the jail premises. The wife of Abbas Ansari was visiting Abbas Ansari for many hours together. On the basis of this information, the District Magistrate had visited the jail and had inspected the barrack and had found that Abbas Ansari was not in the barrack where he was supposed to be. When the barrack of Abbas Ansari was checked, it was found that it had two mobile phones, gold jewellery and Rs. 21,000/-. Also 12 Saudi Riyals were found and this had given rise to Case Crime No. 88 of 2023, under Sections 387, 222, 186, 506, 201, 120-B, 195-A, 34 of I.P.C. read with sections 7/8/13 of the Prevention of Corruption Act and the other offences which were reported were with regard to Section 42(b) and Section 54 of Prisoners Act. All the sections were read alongwith Section 7 of the Criminal Law Amendment Act. During investigation, Section 451, 511 of I.P.C. were added. Investigation when had commenced then vis-a-vis the petitioner, Navneet Sachan, also an investigation had commenced under Section 387, 506, 201, 120-B, 195-A, 34, 451, 511 of I.P.C. read with section 8 of the Anti Corruption Act, 42(b), 54 of Prisoners Act and Section 7 of the Criminal Law Amendment Act. It was reported that the gang's leader Abbas Ansari had been transferred from Naini Central Jail, Prayagraj to

the Chitrakoot Jail. After the incident had occurred which had led to the lodging of the first information report dated 10.2.2023 which had given rise to Case Crime No. 88 of 2023, Abbas Ansari was transferred on 14.2.2023 to the District Jail of Kasganj. It has been stated that Abbas Ansari was a very dreaded criminal and because of his threats, no one could give evidence against him. When investigation was going on, it was found that the gang leader Abbas Ansari with other gang members was very much active. It was also stated in the report that against the gang leader Abbas Ansari proceedings were also initiated under the National Security Act (NSA). A report was, therefore, sent for the initiation of proceedings under the Gangster Act, 1986. This report was dated 25.8.2024. Learned counsel for the petitioner has thereafter submitted that this report as per Rule 5(3)(a) of Gangster Rules, 2021 came for the approval before the Commissioner of Police and the District Magistrate and a joint meeting was held between the Superintended of Police, Chitrakoot and District Magistrate, Chitrakoot on 29.8.2024. In the joint meeting, learned counsel for the petitioner has submitted that, it had to be seen that the two officials did not simply approve the gang chart summarily but had done so after a “due discussion” in which they had *prima facie* found that the gang was, either by means of violence or by threat or by show of violence or by intimidation or coercion, disturbing public order or was in the process of gaining undue temporal pecuniary, material or other advantages for the gang members. Learned counsel for the petitioner states that the entire “due discussion” dated 29.8.2024, by which the gang chart was

approved, did not show such an application of mind during the due discussion which could show that the gang members and its leader were indulging in violence or threat or show of violence to disturb public order or to gain any undue temporal pecuniary material or other advantages for themselves. Learned counsel for the petitioner, therefore, states that a “due discussion” was one which was a routine discussion which has only approved the report which was sent by the Inspector In-charge of the Thana Karvi Kotwali Nagar on 25.8.2024. Learned counsel for the petitioner relying upon the judgments of this Court reported in **(2024) 128 ACC 876; (Abdul Lateef @ Mustak Khan vs. State of U.P. And Others)** and in **Kamalveer Singh vs. State of U.P. and Ors.** reported in **2025 SCC OnLine All 3141** submitted that the prior joint meeting for the approval of the gang chart had to disclose that there was a due discussion wherein it was found that the gang was indulging in violence etc. for disturbing of public order and was in the process of gaining any undue temporal pecuniary material or other advantage. Learned counsel for the petitioner further submitted that after the judgment and order of the High Court was passed in Criminal Misc. Writ Petition No. 2094 of 2024 on 15.5.2024 and before the instant impugned first information report was lodged on 31.8.2024 the activities of the petitioner in between 15.5.2024 to 31.8.2024 had also to be looked into and reported.

7. In the instant case, learned counsel for the petitioner states that when the gang leader was transferred on 14.2.2023 to the District Jail, Kasganj and when the petitioner could not meet him at all then there was

absolutely no evidence of the fact that the petitioner alongwith the alleged gang leader was operating as a gang. Learned counsel for the petitioner further submits that an argument was made by the learned Additional Advocate General that the petitioner was not participating in the sessions trial which was going on vis-a-vis the Case Crime No. 88 of 2023. In reply to this argument of the State the learned counsel for the petitioner has attached the entire order-sheet of the case which shows that the petitioner had been attending the court and had never been absconding. He did not appear only on such dates when his counsel had moved the application for his exemption. Learned counsel for the petitioner further submits that none of the anti social activities which were delineated in the definition clause under Section 2b (i to xxv) of the Gangster Act, 1986 were to be found while branding the petitioner as a gangster.

8. Sri Manish Goyal, learned Additional Advocate General assisted by Sri Rupak Chaube, however, has submitted that the petitioner, Navneet Sachan, was supplying money regularly to the Jail Authorities and was bribing them constantly and that the gang was involved in various activities which could be said were such which would brand the petitioner as a member of the gang. He has submitted that since the petitioner was implicated under Section 387 of IPC, therefore, it could be said that he had committed crimes under Chapter XVI of IPC. Further, since he was involved in the criminal intimidation as per Section 506 of IPC, he was a gangster having done activities under Chapter XVII of I.P.C. and, therefore, the requirements of Clause 2(b) of the Gangster

Act, 1986 was satisfied. Still further he submitted that the petitioner was involved under Section 2b(xxv) of Gangster Act, 1986 as his activities were impacting the security of State and public order. Learned Additional Advocate General states that non-disclosure of the name of the accused in the first information report would not be a ground for the quashing of the first information report. He also submitted that if there was no disclosure of the specific details of how the petitioner was disturbing public order and making any undue temporal pecuniary material or other advantage then also there was nothing wrong. Learned Additional Advocate General submitted that the Rule 5(3)(a) of Gangster Rules, 2021 was adhered to systematically and it matters little if the due discussion had not mentioned the disturbance of public order and the gain of any undue temporal pecuniary material or other advantage. Learned Additional Advocate General further submitted that there was proper compliance of Rules 16 and 17 of the Gangster Rules, 2021 also when the gang chart was forwarded.

9. Having heard Sri Daya Shankar Mishra, learned Senior Advocate assisted by Sri Chandrakesh Mishra and Sri Abhishek Mishra, learned counsel for the petitioner and Sri Manish Goyal, learned Additional Advocate General assisted by Sri Rupak Chaube, learned counsel for the State, this Court is of the view that a perusal of the joint meeting dated 29.8.2024 shows that verbatim the report dated 25.8.2024 of the Sub-Inspector of the thana had been reproduced and that there is absolutely no *prima facie* finding with regard to the fact as to how the petitioner as

an alleged member of the gang was disturbing public peace and gaining any undue temporal pecuniary material or other advantage.

10. We are definitely of the view that even if the first information report did not mention the details after forwarding the gang chart with regard to the disturbance of the public order and with regard to the gaining of any undue temporal pecuniary material or other advantage but the “due discussion” definitely ought to have mentioned about them. In the absence of the *prima facie* finding in the due discussion with regard to the disturbance of public order by the petitioner and also with regard to the gains of any undue temporal pecuniary material or other advantage, we are of the view that the “due discussion” was an empty formality and, therefore, Rule 5(3)(a) of the Gangster Rules, 2021 was not followed. The “due discussion” is a discussion which is privately done between the police officials and the district administration and they need not be made open to the public and in fact the ingredients of the due discussion may not even be mentioned in the first information report but when the due discussion was brought before us i.e. the Court, the Court should make out from the reading of it that the due discussion was not done summarily but the officials had applied their minds to the effect that the accused under the Gangster Act, 1986 was disturbing public order and was gaining pecuniary and temporal advantage. The *Uttar Pradesh Gangster and Anti-Social Activities (Prevention) Act, 1986* is an act which makes the use of certain earlier cases in which the accused is already being tried and if the accused is to be now further tried under the Gangster Act, 1986 then special reasons have to be given after “due

discussion” in a joint meeting between the police officials and the district administration. The due discussion should not be an empty formality. We also find that the gang leader, Abbas Ansari, was transferred to Kasganj Jail on 14.2.2023 and this aspect of the matter has also not been considered in the due discussion. Also, we find that in between the passing of the judgment and order of the High Court dated 15.5.2024 in Criminal Misc. Writ Petition No. 2094 of 2024 and till the lodging of the instant First Information Report dated 31.8.2024, no new facts had been brought on record to illustrate that the petitioner was still functioning as a member of any gang and that he was disturbing public order and making any undue temporal pecuniary material or other advantage.

11. Thus for the reasons mentioned above, the writ petition stands **allowed**. Also the Application U/S 528 BNSS No. - 40591 of 2024 stands **allowed** and the Non-Bailable Warrant stands quashed. The writ petitions vis-a-vis the petitioners in Criminal Misc. Writ Petition No. - 17602 of 2024 and in Criminal Misc. Writ Petition No. - 18422 of 2024 are also accordingly, **allowed**.

12. The First Information Report dated 31.8.2024 which had given rise to Case Crime No. 556 of 2024, under Sections 2/3 of Gangster Act, 1986 is quashed. Also the gang-chart on the basis of which the first information report was lodged is quashed.

(Madan Pal Singh,J.) (Siddhartha Varma,J.)

September 26, 2025

M.S. Ansari