

Court No. - 68

(1) Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44377 of 2024

Applicant :- Kanika Dhingra

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Dubey

Counsel for Opposite Party :- G.A.

With

(2) Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47574 of 2024

Applicant :- Ajay Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Nisha Chouhan, Shailendra Singh Rathore

Counsel for Opposite Party :- G.A.

With

(3) Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45854 of 2024

Applicant :- Mayank Dhingra

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Dubey

Counsel for Opposite Party :- G.A.

With

(4) Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44641 of 2024

Applicant :- Tushar Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Shashi Dhar Shukla

Counsel for Opposite Party :- G.A.

With

(5) Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45745 of 2024

Applicant :- Sanjay Dhingra

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Dubey

Counsel for Opposite Party :- G.A.

With

(6) Case :- CRIMINAL MISC. BAIL APPLICATION No. - 269 of 2025

Applicant :- Rishabh Jain

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Dubey

Counsel for Opposite Party :- G.A.

With

(7) Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4195 of 2025

Applicant :- Sanjay Jindal

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar, Vinod Kumar Tirpathi

Counsel for Opposite Party :- G.A.

With

(8) Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5013 of 2025

Applicant :- Suganya Prabhu

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Ashutosh Srivastava, J.

1. All the above Criminal Misc. Bail Applications at the instance of the respective applicant seeking enlargement on bail in Case Crime No. 173 of 2024, under Section 2/3 of the U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986, Police Station Noida Sector-20, District Gautam Buddh Nagar. The Case Crime Number aforesaid has been lodged on the basis of the allegations set out in three predicate FIRs giving rise to Case Crime No. 203 of 2023, Case Crime No. 248 of 2023 and Case Crime No. 255 of 2023, under Sections 420, 467, 468, 471 and 120-B IPC, 1860. The applicants were not named in the FIRs nor in the gang-chart prepared thereto. However, their names find place in the supplementary gang-chart prepared subsequently. The bail applications have been filed on almost identical grounds and as such are being considered by a common judgment, taking the case of Kanika Dhigra being Criminal Misc. Bail Application No. 44377 of 2024) as the leading case.

2. Heard Sri Anoop Trivedi, learned Senior Counsel assisted by Sri Ashok Kumar Dubey, learned counsel for the applicant and Sri Manish Goyal, learned Additional Advocate General assisted by Sri Rajesh Kumar Singh, learned AGA for the State Respondent.

3. The instant bail application at the instance of the applicant, Kanika Dhingra wife

of Sanjay Dhingra has been filed seeking enlargement on bail in Case Crime No. 173 of 2024, under Section 2/3 of the U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986, Police Station, Noida Sector-20, District Gautam Buddh Nagar during the pending of the trial before the court below.

4. It is the case of the applicant that she has been falsely implicated in this very case with malafide intent. Three FIRs giving rise to the Case Crime No. 203 of 2023, under Sections 420, 467, 468, 471 and 120-B of the IPC, 1860, Police Station Noida Sector-20, District Gautam Buddh Nagar; Case Crime No. 248 of 2023, under Sections 420, 467, 468, 471 and 120-B of the IPC, 1860, Police Station Noida Sector-20 District Gautam Buddh Nagar and Case Crime No. 255 of 2023, under Sections 420, 467, 468, 471 and 120-B of the IPC, 1860, Police Station Noida Sector-20, District Gautam Buddh Nagar were lodged. The applicant was not named in all the above cases. The three cases aforementioned were mentioned in the gang chart which arrayed 33 persons. The name of the applicant was not mentioned in the said gang chart. A supplementary gang chart was prepared against 16 other persons. The name of the applicant finds mention in the supplementary gang chart at Serial No. 7 thereof. The applicant applied for bail before this Court by way of Criminal Misc. Bail Application No. 25547 of 2024 (Kanika Dhingra Vs. State of U.P.) which bail application was rejected by this Court vide order dated 02.09.2024. The order rejecting the bail plea of the applicant was assailed before the Apex Court in SLP (Crl.) No. 14213-14215 of 2024 along with other SLPs leading amongst them being SLP (Crl.) No. 13548-13550 of 2024 (Rajiv Jindal Vs. State of U.P.). The Apex Court vide its order dated 25.10.2024, granted leave, allowed the Appeal and directed the Trial Court to enlarge the applicant on bail on appropriate terms and conditions. The Trial Court (Chief Judicial Magistrate) Gautam Buddh Nagar in compliance of the order of the Apex Court granted bail to the applicant vide order dated 28.10.2024.

5. Sri Anoop Trivedi, learned Senior Counsel appearing for the applicant vehemently submits that the applicant has been falsely implicated in Case Crime No. 0173 of 2024, under Section 2/3 of the Gangster and Anti-Social Activities (Prevention) Act, 1986, Police Station Noida, Sector-20, District Gautam Buddh Nagar, only with the view to frustrate the order of the Apex Court granting bail to the applicant. It has also been argued that the cause of action in the three FIRs did not arise in the State of U.P. and the present case under the Gangster Act also has no legs to stand having been founded on the strength of the three FIRs i.e. Case Crime No. 203 of 2023, 248 of 2023 and 255 of 2023. It is also submitted that investigation is still going on and approval of the officers on the gang chart has been completely ignored rendering the gang chart illegal in the eye of law. No recovery has been made from the possession of the applicant. There is no independent witness and no transaction has been made in the account of the applicant. The applicant has never been a gang member in the alleged gang. Apart from the above, three cases and the present case, the applicant has no other criminal antecedent. It is also submitted that the applicant is suffering from several ailments

such as Asthama, Thyroid, Depression, High B.P., Swelling in Body, Arthritis and other ailments and is under regular medical examination and supervision of expert Doctors. The applicant has been languishing in jail since 01.05.2024. Several legal arguments in respect of preparation of the gang chart, violation of Rule 5(3)(a) of the Gangster Rules, 2021, violation of Rule 16, 16(2), 16(3) and Rule 17 of the Gangster Rules, 2021 has been alleged and argued. Apart from the above, the principle of law as laid down by the Apex Court in the case of **Data Ram Singh Vs. State of U.P., 2018(3) SCC 22, Satyendra Kumar Antil Vs. CBI & another 2022(10) SCC 51, Prabhakar Tewari Vs. State of U.P. and another, 2020(11) SCC 648** have been pressed and it has also been submitted that co-accused Rajiv Jindal and Gaurav Singhal have been granted bail by the Coordinate Bench of this Court in Criminal Misc. Bail Application No. 41231 of 2024 vide order dated 29.11.2024 and Criminal Misc. Bail Application No. 41330 of 2024 vide order dated 29.11.2024. Accordingly, bail has been prayed for.

6. Per contra, Sri Manish Goyal, learned Additional Advocate General assisted by Sri Rajesh Kumar Singh, learned AGA in opposition to the bail plea of the applicant contended that the submission of the learned Senior Counsel for the applicant that the instant case under the Gangster Act has been lodged against the applicant only to frustrate the bail order of the Apex Court does not merit consideration inasmuch as the order of the Apex Court is dated 25.10.2024, pursuant to which the applicant was released on bail by the Trial Court vide order dated 28.10.2024. The present case under the Gangster Act was instituted on 03.06.2024 much prior to the aforesaid date, as is evident from the FIR brought on record. No sinister purpose in this regard can be attributed to the State Respondent. The Court finds substance in the said submission of the learned Additional Advocate General. The contention of the learned counsel for the applicant does not merit consideration. Sri Manish Goyal, learned Additional Advocate General further submits that the applicant along with others co-accused person are working as a syndicate and has claimed the Input Tax Credit to the tune of Rs. 26,452,895,600/- by misusing the PAN Card of Saurabh Dwivedi and other general public generated fake GST Numbers and evaded GST by claiming Input Tax Credit of the above amount, which has caused loss of billions of rupees to the State Exchequer which is a serious economic offence. Placing reliance upon a Full Bench decision of this Court in the case of Ashok Kumar Dixit Vs. State of U.P & others reported in **1987 SCC online All.**, it is contended that 'Organized Crime' and 'Gangster' stand on a different footing and a distinct threshold needs to be applied in such proceedings. The Gangster Act is designed to deal with a class of crime which is entirely distinct from ordinary offences.

7. It is further contended that the Act intends to make special provisions against gangsterism, anti-social activities and to nip in the bud any type of organized crime as held in the case of **Dharmendra Kirthal Vs. State of U.P. and another**, reported in **2013 (8) SCC 368** while upholding the constitutional validity of Section 12 of the Act. Placing further reliance upon the principle laid down by the Apex Court in

the ***State of Maharashtra Vs. Vishwanath Moranna Shetty*** reported in **2012 (10) SCC 561** and in the case of ***Collector of Customs, New Delhi Vs. Ahmadalieva Nodira***, reported in **2004 (3) SCC 549** though the cases pertained to the Maharashtra Control of Organized Crime Act, 1999 (MCOCA) and the NDPS Act, 1985, it is contended that the applicant is not entitled to be released on bail. Reliance is also placed upon decisions of Coordinate Bench in Criminal Misc. Bail Application Nos. 8930 of 2023, 8927 of 2023, 9136 of 2023 and 8970 of 2023, wherein bail under Section 2/3 of the Gangster Act has been refused. It is, accordingly, submitted that the bail application of the applicant is liable to be rejected.

8. I have heard the respective counsels and perused the records. On the perusal of the records, I find that admittedly the applicant has been granted bail in the three predicate FIRs giving rise to Case Crime No. 203 of 2023, Case Crime No. 248 of 2023 and Case Crime No. 255 of 2023, all under Sections 420, 467, 468, 471 and 120-B IPC, 1860, Police Station Sector 20 Noida, District Gautam Buddh Nagar by the Apex Court. In the predicate FIRs the applicant has not been named and also in the gang chart prepared thereto the name of the applicant is not mentioned. The said facts itself speaks volumes of the non-complicity of the applicant in the alleged crime. However, a supplementary gang chart has been prepared on 30.09.2024 in which the applicant has been shown at Serial No. 7. The applicant has a criminal history of four cases i.e. three predicate FIRs mentioned above and including the present case which have been duly explained. The Court also finds that the allegations against the applicant is that she is an active member of a gang, who is an habitual offender of committing crimes for economic material and material gain for herself and other gang members and along with other co-accused persons have claimed Input Tax Credit by misusing the PAN Card of Saurabh Dwivedi and other general public generated fake GST numbers and evaded GST to the tune of Rs. 26,452,895,600/-. The registration of the case under the Gangster Act stems from the allegations set out in the three predicate FIRs. The applicant has already been granted bail by the Apex Court in the three criminal cases on which basis the present case under the Gangster Act has been registered. It may be also noted that the Criminal Cases which form the basis of the present proceedings under the Gangster Act are all triable by Court of Magistrate. The Apex Court has released the applicant taking note of the said fact. The co-accused Rajiv Jindal and Gaurav Singhal have already been enlarged on bail. The Apex Court very recently in the case of ***Jay Kishan and others Vs. The State of Uttar Pradesh, Criminal Appeal No. of 2025***, arising out of ***SLP (Crl.) No. of 2025 (Diary No 23042 of 2024)*** reported in **2025/NSC/98** while considering an Appeal arisen from a final order of a Division Bench of this Court dated 17.01.2024 passed in ***Criminal Writ Petition No. 19541 of 2023*** dismissing the writ petition filed for quashing the FIR under Section 2 & 3 of the U.P. Gangster Act, while allowing the Appeal was pleased to observed as under:-

"26. While the three CCs find reference in the FIR-CC 92 of 2023, a glance at the afore-extract would exhibit a certain vagueness. In our considered opinion, the same

would not meet the threshold requirement to enable recourse to the Act. Obviously, the allegations in the CCs are yet to be adjudicated finally by a competent court. We may hasten to add that not for a minute are we to be misunderstood to mean that the Act cannot be invoked basis pending cases. Of course, it can be. However, the case(s) against the person(s) qua whom the Act is to be invoked cannot be run-of-the-mill – it must be serious. The severity required for the underlying case(s), we think, ought not to be judicially strait-jacketed as a lot would turn on the specific peculiarities of each case. The situation would be very different though, if the allegations levelled in the underlying case(s) had been proved at trial - it could have been a good ground to sustain and justify action under the Act. In that scenario, we would have ordinarily refrained from any interdiction. In the present matter, for the three CCs, as trial has yet to commence/is continuing/has not been concluded, for the present, there remain only indications and open-endedness to the allegations. In other words, in praesenti, the underlying CCs do not appear to fall within the net of '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', as mandated under Section 2(b) of the Act. The situation, thus, would clearly operate to the benefit of the appellants. As the CCs referred to in the FIR are three, we are not required to deal with Shraddha Gupta (supra).

27. The matter is capable of being looked at from a different lens. The complainant(s)/informant(s) in the three CCs have resorted to their remedies under criminal law. In fact, a fourth CC, as informed by learned counsel for R5, also stands lodged against the appellants. Assuming that all the allegations in the three (or four, including the CC not referred to in the FIR) CCs are correct, there is no mention of any instance, post- registration of the said CCs, of the appellants implementing/acting on the said alleged threats. The complainant(s)/informant(s) have also resorted, where required, to civil proceedings. In the overall picture that emerges from the above, resort to the Act by the State seems premature and uncalled for."

9. In the opinion of the Court it is a fit case for granting bail to the applicants. Accordingly, the bail applications are **allowed**.

10. Let the accused-applicants, **Kanika Dhingra, Ajay Sharma, Mayank Dhingra, Tushar Gupta, Sanjay Dhingra, Rishabh Jain, Sanjay Jindal and Suganya Prabhu**, involved in above mentioned case crime number be released on bail, on their executing a personal bond and two reliable sureties each, in the like amount to the satisfaction of the court concerned, subject to the following conditions:

- a. The applicants will not tamper with the evidence.
- b. The applicants will not indulge in any criminal activity.
- c. The applicants will not pressurize/intimidate the prosecution witnesses and co-operate in the trial.
- d The applicants will appear regularly on each and every date fixed by the trial court, unless their personal appearance are exempted through counsel by the court concerned.

e. The applicants will surrender their passport, if any, before the Trial Court.

11. In the event of breach of any of the aforesaid conditions, the court below will be at liberty to proceed to cancel their bail.

Order Date :- 12.3.2025

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