



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 10788 of 2025

Suresh Prasad @ Surendra Prasad Tiwari And
Another

.....Petitioner(s)

Versus

State Of U.P. Thru. Secy. Home Deptt. Lko. And 3
Others

.....Respondent(s)

Counsel for Petitioner(s)	: Mahendra Kumar Rawat, Dr. Sunil Kumar
Counsel for Respondent(s)	: G.A.

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE SYED QAMAR HASAN RIZVI, J.

1. Heard learned counsel for the petitioners, learned AGA for respondents
2. Learned AGA prays for and is granted two weeks time to file counter affidavit to which reply may be filed within next one week. Considering that short question is involved in the matter list this case after expiry of the aforesaid period as fresh.
3. Instant petition has been filed praying for quashing of the FIR bearing no.0802/2025 under Sections 3(1), 2 of the U.P. Gangster and Anti Social Activities (Prevention) Act, Police Station Kotwali, District Unnao.
4. The contention of learned counsel for the petitioners is that a perusal of the impugned FIR would indicate that it has been lodged under Section 2 and 3(1) of the Act, 1986. Section 3(1) of the Act provides a penalty i.e. a gangster to be punished with imprisonment of either description for a term which shall not be less than two years and which may extend to ten years etc.
5. Section 2 of the Act is the definition clause which defines 'Code', 'gang', 'gangster', public servant', 'member of the family of a public servant'. Section 2(f) of the Act also indicates that the words and phrases used but not defined in this Act and defined in Cr.P.C. 1973 or the IPC

shall have the meanings respectively assigned to them in such Codes.

6. Placing reliance on the Division Bench judgment of this Court in the case of **Asim @ Hassim vs. State of U.P. and another-2023:AHC:228600-DB** the argument is that this aspect of the matter has been considered by the Division Bench of this Court wherein it has been held that while filing of the FIR under the provisions of the Act, 1986 the corresponding provisions mentioning the anti-social activities in which the accused is involved and on the basis of which he was named as a gangster has to be indicated in the FIR. Reiterating the argument that simply indicating Section 2 of the Act, 1986 without indicating the provisions of the Act, 1986 under which the FIR has been lodged and only indicating the punishment under the provisions of the Act would not suffice the provisions of the Act, 1986 and would also run contra to the judgment of this Court in the case of **Asim (supra)**.

7. A perusal of the judgment passed by the Division Bench of this Court in the case of **Asim (supra)** would indicate that the Division Bench has categorically held that an FIR lodged under the provisions of Act, 1986 without mentioning the corresponding provision mentioning the anti-social activities in which the accused is involved and on the basis of which he was named as a gangster would not suffice the provisions of the Act, 1986.

8. On the other hand, learned AGA has tried to justify the FIR on the basis of the material which was available with the authorities and that the petitioners would fall within the ambit of gangsters and hence the FIR has correctly been lodged. At this stage, learned AGA points out on the basis of instructions sent by Sri Ajay Kumar Singh, Incharge Inspector, Police Station Gangaghat, District Unnao, that the petitioner no.1 has already been arrested on 17.11.2025.

9. Keeping in view the aforesaid discussion more particularly when the FIR itself does not indicate the provisions of the Act, 1986 under which the FIR has been lodged and only mentioning the omnibus clause of Section 2 which is the definition clause, prima facie, the case for interference is made out. As such, till the next date of listing, no further

investigation in pursuance to the impugned FIR shall take place against the petitioners.

10. Needless to mention that the petitioners shall cooperate in the investigation.

11. It is also provided that in case the petitioners do not cooperate in the said investigation it would be open for the Investigating Officer or the complainant to file appropriate application for vacation of this order.

12. As regards the arrest of the petitioners, it would be open to them to pursue appropriate remedy as may be available to them.

(Syed Qamar Hasan Rizvi,J.) (Abdul Moin,J.)

November 24, 2025

A. Katiyar