2026:AHC:207979-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 5424 of 2025

Prem Narayan Prajapati

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Akhilesh Kumar, Brajesh Kumar Singh
Counsel for Respondent(s)	:	G.A.

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.

1. Case called out in revised list.

2. Even though the name of Mr. Brijesh Kumar Singh and Mr. Akhilesh Kumar are duly published in the cause list as counsel for petitioner, but neither they nor anyone on their behalf is present to press the present writ petition.

3. Learned A.G.A. representing respondents 1, 2 and 3 is present.

4. Perused the record.

5. Petitioner Prem Narayan Prajapati has approached this court by means of present criminal miscellaneous writ petition challenging the FIR dated 19.02.2025 lodged by first informant Om Prakash Narayan Singh and registered as Case Crime No. 12 of 2025, under Sections 3 (1) of U.P. Gangster Act and Anti-Social Activities (Prevention) Act, 1986, Police Station Manchi, District Sonbhadra.

6. Present writ petition came up for admission on 24.03.2025 and this court passed the following order:-

"1. Heard learned counsel for the petitioner and Sri G.P. Singh, learned A.G.A. for State respondents.
2. Present writ petition has been preferred to quash the FIR dated 19.02.2025 being Case Crime No.12 of 2025 under Section 3(1) of U.P. Gangster and Anti-Social Activities (Prevention) Act, P.S.Manchi, District-Sonbhadra in respect of the petitioner and for a direction to respondents not to arrest the petitioner pursuant to impugned FIR.

3. Learned counsel for the petitioner contended that the petitioner has been falsely implicated in the present case and no offence under the aforesaid Sections is made out against him. He has good reputation in the society. The petitioner is not a member or leader or organizer of a group which indulges in the kind of activities set out under the various sub-clauses of clause (b) of Section 2, by use of violence or threat or show of violence or intimidation etc. Ref : Ashok Kumar Dixit vs. State of U.P. 1987 (34) ACC 164. It is further averred that the use of word "activities"in a criminal proceeding cannot indicate that a single act of anti-social activity can turn a person into a gangster. There have to be at-least two acts and the commission of those act by the accused has to be established beyond reasonable doubt according rules of evidence as applicable to criminal trial. Ref: State of U.P. vs. Phool Mia 1998 (1) JIC 792 (All). It is averred that as per gang chart, there is only one criminal case registered against the petitioner as Case Crime No.02 of 2025 under Section 3/5A/8 of Cow Slaughter Act and Section 11 of Animal Cruelty Act, P.S. Manchi District-Sonbhadra in which he has already been granted bail by the trial court on 31.01.2025 and as such the impugned FIR is liable to be quashed.

4. Per contra, learned A.G.A. has vehemently opposed the writ petition and submitted that from bare perusal of the FIR cognizable offence is made out against the petitioner and the authorities had rightly invoked the provisions of Gangster Act. It is also submitted that even on the basis of solitary case proceeding under the Gangster Act can be imposed. Reliance in this regard has been placed on the judgment of Hon'ble Apex Court in the case of Shraddha Gupta vs The State Of Uttar Pradesh decided on 26 April, 2022 in Criminal Appeal No. 569-570 of 2022.

5. The matter requires consideration.

6. The State-respondents is accorded four weeks time to file counter affidavit. One week, thereafter, is accorded to file rejoinder affidavit.

7. List thereafter.

8. Till the next date of listing, or till submission of the police report under Section 173(2) Cr.P.C. (now Section 193(3) of Bhartiya Nagrika Suraksha Sanhita, 2023), whichever is earlier, the respondents are restrained from arresting the petitioner pursuant to the impugned F.I.R. subject to cooperation in the ongoing investigation."

7. Upon perusal of order sheet, we find that the aforesaid interim order has not been extended thereafter. Apart from above, the first informant Om Prakash Narayan Singh has not been impleaded as a party respondent in present writ petition. Apex Court in the case of **Udit Narain Singh Malpaharia vs. Additional Member, Board of Revenue 1963 AIR 786** has already observed that the authority which has passed the order and the person in whose favor the order has been passed are necessary parties to a writ petition. Since the first informant has not been impleaded as a party respondent in present writ petition who is a necessary and proper party, therefore, present writ petition suffers from the vice of non-joinder of necessary and proper party. As a result, the writ petition fails and is liable to

be dismissed.

8.It is accordingly, **dismissed.**

9. Interim order if any shall stand vacated.

October 5, 2026
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(Jai Krishna Upadhyay,J.) (Rajeev Misra,J.)

Digitally signed by :-
ASHOK KUMAR TRIPATHI
High Court of Judicature at Allahabad