2026:AHC:207424-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 9983 of 2024

Abdul Gaffar And Another

.....Petitioner(s)

Versus

State Of Up And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Janardan Yadav
Counsel for Respondent(s)	:	G.A.

With

CRIMINAL MISC. WRIT PETITION No. - 9176 of 2024

Abdul Quddus And 2 Others

.....Petitioner(s)

Versus

State Of U.P And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Amit Kumar Srivastava, Aryan Srivastava
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 names of Mr. Janardan Yadav, Mr. Amit Kumar Srivastava and Mr. Aryan Srivastava are duly published in the cause list as counsel for petitioners however neither they nor any one on their behalf is present to press this writ petition even in revised call.

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

4. Petitioners-Abdul Gaffar And Another and petitoners Abdul Quddus And 2 Others in connected writ petition have approached this Court by means of present Criminal Misc. Writ Petitions challenging the F.I.R. dated 08.05.2024 lodged by first informant, Sudesh Kumar Singh and registered as Case Crime No. 134 of 2024 under Sections 2 (b) (i) and 3 (1) of U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station-

Kandhrapur District-Azamgarh.

5. Civil Misc. Writ Petition No. 9983 of 2024 came up for admission on 10.06.2024 and this court passed the following order:

"1. Heard learned counsel for the petitioners, learned AGA for the State and perused the record.

2. Learned counsel for the petitioners has submitted that the petitioners are wholly innocent and have been falsely implicated in the present case due to ulterior motive. He has further submitted that while approving the gang chart Rule 8(2)(4) as well as Rule 10(1) of U.P. Gangsters and Antisocial Activities (Prevention) Rules, 2021 has not been followed and as such the impugned first information report is liable to be quashed.

3. Matter requires consideration.

4. Learned AGA prays for and is granted three weeks' time to file counter affidavit. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

5. Connect this petition along with Criminal Misc. Writ Petition No. 9176 of 2024; Abdul Quddus and others vs. State of U.P. and others and list on the date fixed in the said case.

6. Till then, the petitioners shall not be arrested in pursuance of the impugned F.I.R. dated 08.05.2024 arising out of Case Crime No. 134 of 2024, under Section 2(b)(i)/3(1) of U.P. Gangsters and Antisocial Activities (Prevention) Act, 1986, Police Station Kandhrapur, District Azamgarh.

Order Date :- 10.6.2024 "

6. Civil Misc. Writ Petition No. 9176 of 2024 came up for admission on 30.04.2026 and this court passed the following order:

In compliance with our order dated 27.04.2026, Mr. Shashi Shekhar Tiwari, learned Additional Government Advocate has produced the Case Diary, including the statement of the prosecutrix, recorded before the learned Judicial Magistrate under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short). A perusal of the high school mark-sheet shows that her date of birth is 02.11.2008 and she is, indeed, a minor. In her statement recorded under Section 183 BNSS, she also says that she is aged 17 years, acknowledging her minority. However, the incident that she described is absolutely exculpatory. She says there that on 16.03.2026, she left her home all by herself at 9 o'clock in the morning hours, because she had a sharp exchange of words with her family members. She says that her family members wish to marry her off, whereas, she wants to read further. She boarded a bus to Khurja. She was standing at the bus stand, when she

was apprehended. She has specifically said that she does not know anyone by the name Nikhil, and that is all that is there to her statement, which she has made before the learned Judicial Magistrate. There is, prima facie, no reason to proceed against the petitioner, once that is the stand of the prosecutrix in her statement recorded under Section 183 BNSS. Notice on behalf of respondent nos. 1 and 2 is accepted by Mr. Shashi Shekhar Tiwari, learned Additional Government Advocate. Let notice be caused to be served upon the High Court Legal Service Committee, Allahabad, the Child Welfare Committee, Hapur and the informant through the learned Chief Judicial Magistrate, Hapur and Bulandshahr respectively. Let the High Court Legal Services Committee be served internally. This matter is adjourned as fresh to 07.05.2026. Since the petitioner says that he can be arrested anytime, which Ms. Akanksha Gaur, learned Counsel appearing on his behalf vehemently submits, we direct that till the next date of listing, the petitioner, to wit, Nikhil Sharma shall not be arrested in connection with Case Crime No. 75 of 2026, under Sections 137(2), 64(1) of the Bharatiya Nyaya Sanhita, 2023, Police Station Pahasu, District Bulandshahar. The Registrar (Compliance) is directed to communicate this order to the learned Chief Judicial Magistrates of Hapur and Bulanshahr, the Senior Superintendent of Police, Bulandshahar and the Station House Officer, Police Station Pahasu, Bulandshahar, both through the learned Chief Judicial Magistrate, Bulandshahr within 24 hours next.

7. On the matter being taken up, the learned A.G.A. representing State-respondents 1, 2 and 3 has filed an affidavit on behalf of State of U.P. in Court today, which is taken on record. With reference to the affidavit filed toady, the learned A.G.A. submits that Investigating Officer upon completion of statutory investigation in terms of Chapter XII Cr.P.C. has submitted requisite police report/charge sheet dated 26.10.2025 in terms of Section 173 (2) Cr.P.C.. Upon submission of aforesaid charge sheet, cognizance has also been taken by concerned Magistrate/Court vide Cognizance Taking Order dated 21.09.2026. On the above premise and in view of the law laid down by Supreme Court in **Pradnya Pranjal Kulkarni Vs. State of Maharashtra and another 2025 SCC OnLine SC 1948**, the learned A.G.A. submits that no adjudication is required in present writ petitions. As such, both the writ petitions are liable to be dismissed as infructuous by this Court.

8. Having heard the learned A.G.A. representing State/respondents 1, 2 and 3 in both the writ petitions and upon perusal of record, we find that in view of the objections raised by the learned A.G.A. and also the law laid down by Supreme Court in **Pradnya Pranjal Kulkarni (Supra),** we are of the view that no further adjudication is required in present writ petitions.

9. As a result, present writ petitions fail and are liable to be dismissed as infructuous

10. They are accordingly dismissed as having rendered infructuous.

11. Interim order, if any, granted earlier shall stand vacated.

October 5, 2026
YK

(Jai Krishna Upadhyay,J.) (Rajeev Misra,J.)

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