HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10786 of 2025

Ramlochan@ Commander

.....Appellant(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Akarsh Dwivedi, Anil Kumar Shukla
Counsel for Respondent(s)	:	G.A.

Court No. - 88

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the appellant and Mr. Jhamman Ram, learned A.G.A. for the State.

2. The instant appeal has been preferred with a prayer to set aside the order dated 04.09.2025 passed by the learned Special Judge (Gangster Act), Sonbhadra, in Criminal Misc. Case No. 996 of 2023 (State of U.P. v. Ram Lochan @ Commander), under Section 16(1) of the Gangsters Act, whereby the attachment order dated 20.11.2023 passed by the District Magistrate, Sonbhadra, in Case No. 70 of 2023, pursuant to the F.I.R. bearing Case Crime No. 156 of 2022, Police Station Duddhi, District Sonbhadra, arising out of the gang-chart dated 16.09.2022, has been affirmed. It is, accordingly, prayed that the aforesaid attachment order dated 20.11.2023 as well as the gang-chart dated 16.09.2022 may also be set aside.

3. Learned counsel for the appellant submits that the Mahindra tractor bearing Registration No. U.P. 64 AC 1238 was purchased on loan on 18.05.2017, whereas the base case against the appellant was registered on 03.12.2018 as Case Crime No. 102 of 2018, under Sections 379 and 411 of the Indian Penal Code, Section 357/70 of the U.P. Minor Minerals Act and Section 4/21 of the Mines and Minerals (Development and Regulation) Act, at Police Station Duddhi, District Sonbhadra. Thus, the aforesaid tractor had been purchased much prior to the registration of the F.I.R. in the base case.

4. Learned counsel for the appellant has placed reliance upon Rule 37(3) of the Gangsters Act, 2021, which provides that attachment of the property of a gangster can be carried out even before registration of a case under the Act:

"Provided that at that time any criminal case enumerated in sub-clauses (i) to (xxv) of clause (b) of Section 2 of the Act has been registered against the accused and the property has been acquired by causing such offence."

5. Learned counsel for the appellant further submits that the second tractor bearing Registration No. U.P. 64 AJ 9462 was purchased on 27.05.2019 and the appellant has duly explained the source of funds for its purchase. It has been submitted that the appellant runs a kirana shop in the name of his wife, Salita Devi, from which there is a regular income.

6. It is further submitted that the appellant's wife, Salita Devi, had taken a loan of Rs. 70,000/- on 19.07.2019 and a further loan of Rs. 90,000/- in the year 2021, and the said amounts were utilised towards repayment of the loan taken for purchase of the aforesaid tractor. She had also taken a loan of Rs. 2,00,000/- from SIDBI-CASHCORE Micro Credit Corporation.

7. It is further submitted that the appellant's father, Sona Bacha, had taken a loan of Rs. 2,00,000/- under KCC, which was utilised towards repayment of the tractor loan. The appellant's father owns agricultural land in his name and earns approximately Rs. 2,00,000/- per annum therefrom. It is also submitted that the appellant had taken a loan of Rs. 2,00,000/- from his brother-in-law, Rajeshwar, on 10.04.2017.

8. Learned counsel for the appellant has further argued that the gang-chart was not prepared in accordance with law, as the meeting was required to be held jointly, whereas no joint meeting was convened and the signatures of the concerned persons were obtained on different dates.

9. Learned counsel for the appellant has also placed reliance upon the judgment of this Court in **Afzal Begum v. State of U.P., reported in 2012 (8) RCR (Criminal) 1296**, wherein this Court has held that any property acquired by the appellant prior to registration of the base case cannot be attached under Section 14(1) of the Gangsters Act as property acquired from illegal earnings.

10. It is further contended that so far as the second tractor is concerned, the appellant has furnished an explanation regarding the source of funds for its purchase, which is duly supported by the documents brought on record. So far as the first tractor is concerned, the same was admittedly purchased much prior to registration of the base case. Therefore, there is no justification for

continuing the attachment of the aforesaid tractors.

11. Per contra, learned A.G.A. has submitted that there is a gang-chart involving two cases against the appellant and that the appellant was arrested in connection with illegal mining. It is further submitted that the appellant has failed to furnish any satisfactory explanation regarding the source of funds for purchase of the aforesaid tractors.

12. I have considered the rival submissions advanced by learned counsel for the parties and have perused the record.

13. It is evident from the record that the first tractor bearing Registration No. U.P. 64 AC 1238 was purchased on 18.05.2017, whereas the base case was registered on 03.12.2018. Thus, the said tractor was admittedly purchased much prior to registration of the base case. In view of the law laid down by this Court in **Afzal Begum (supra)**, the property acquired prior to registration of the base case cannot be treated as property acquired from illegal earnings so as to attract the provisions relating to attachment under the Gangsters Act.

14. So far as the second tractor bearing Registration No. U.P. 64 AJ 9462 is concerned, the appellant has furnished an explanation regarding the source of funds for its purchase. The said explanation refers to the income from agricultural land as well as loans obtained by the appellant and his family members. The explanation is also stated to be supported by the documents brought on record. In the facts and circumstances of the case, the explanation furnished by the appellant cannot be said to be wholly devoid of substance.

15. In view of the aforesaid facts and circumstances, the impugned order dated 04.09.2025 passed by the learned Special Judge (Gangster Act), Sonbhadra, in Criminal Misc. Case No. 996 of 2023 (State of U.P. v. Ram Lochan @ Commander), arising out of Case Crime No. 156 of 2022, under Section 16(1) of the Gangsters Act, Police Station Duddhi, District Sonbhadra, is hereby set aside.

16. Consequently, the attachment order dated 20.11.2023 passed by the District Magistrate, Sonbhadra, in Case No. 70 of 2023, in respect of the aforesaid tractors, is also set aside.

17. The concerned competent authority is directed to release the attached tractors of the appellant forthwith, in accordance with law.

18. In view of the aforesaid findings and observations, the criminal appeal is **partly allowed** and stands disposed of.

October 8, 2026
M. Tarik

(Abdul Shahid,J.)

Digitally signed by :-
MOHD TARIK
High Court of Judicature at Allahabad