



2025:AHC:172967

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL MISC. BAIL APPLICATION No. - 10919 of 2025**

Reserved on 02.09.2025

Delivered on 25.09.2025

Irfan Solanki

.....Applicant(s)

Versus

State of U.P.

.....Opposite  
Party(s)

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Counsel for Applicant(s) : Imran Ullah, Mohd Raghieb Ali, Prashant Singh, Sr. Advocate, Vineet Vikram  
Counsel for Opposite Party(s) : G.A.

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**Court No. - 82**

**HON'BLE SAMEER JAIN, J.**

1. Heard Sri Imran Ullah, learned counsel for the applicant and Sri Manish Goyal, learned Additional Advocate General assisted by Sri Vikas Sahai, learned Additional Government Advocate for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 156 of 2022, under Section 3(1) U.P. Gangsters & Anti-Social Activities (Prevention) Act, 1986, Police Station Jajmau, District Kanpur Nagar during pendency of the trial.

**Brief facts of the case:**

3. FIR of the present case was lodged on 26.12.2022 under Section 3(1) of U.P. Gangsters Act against applicant and four others. According to the FIR, applicant is gang leader and other accused are active members of his gang and they indulged in anti social activities. It also reflects, FIR of the present case was lodged on the basis of gang chart and in the gang chart one case relates to offence under Sections 147, 436, 506, 327, 427, 386, 504, 120B IPC has been shown against the applicant as base case.

**Arguments advanced on behalf of applicant:**

4. Learned counsel for applicant submits, applicant is Ex-M.L.A. and only

due to his political background he has been roped in the present matter. He further submits, only on the basis of solitary case shown in the gang chart applicant has been made accused in the present matter and has been declared as gang leader.

5. He further submits, however, on the basis of solitary case a person can be made accused under the provisions of U.P. Gangsters Act but on the basis of such solitary case which has been shown in the gang chart an individual can not be implicated under the provisions of Gangsters Act.

6. He further submits, even from the gang chart it reflects, mandatory Gangsters Rules, 2021 have not been followed while approving the same. He further submits, gang chart suggests that Additional Police Commissioner and Deputy Police Commissioner although approved the gang chart on 24.12.2022 but Commissioner of Police approved it on 25.12.2022, therefore, it is apparent that the gang chart of the present case has not been approved in the joint meeting which is in violation of Rule 5(3)(a) of 2021.

7. He further submits, even from the gang chart it reflects, without application of mind gang chart has been approved which is again against the Rules 17 of 2021. He further submits, Gangsters Rule 2021 have been introduced to ensure that the provisions of U.P. Gangsters Act should not be misused and therefore its provisions are mandatory.

8. He placed reliance on the judgment of the Apex Court in the case of **Vinod Bihari Lal Vs. State of U.P. and another 2025 SCC OnLine SC 1216** and judgment of Division Bench of this Court in **Sanni Mishra @ Sanjayan Kumar Mishra Vs. State of U.P. and others 2023 SCC OnLine All 2975**.

9. He further submits, however, apart from the present case applicant is having criminal history of 17 cases including the solitary base case shown against him in the gang chart but his entire criminal history has been explained in the affidavit filed in support of instant bail application.

10. He further submits, however, out of 17 cases in one case relates to offence under Sections 147, 436, 506, 327, 427, 386, 504, 120B IPC applicant has been convicted but his appeal is pending before this Court and this Court enlarged him on bail during pendency of his appeal.

11. He further submits, three cases have been withdrawn with the permission of the Court and in four cases final reports have been submitted and in remaining cases applicant is on bail including the base case shown in the gang chart.

12. He next submits, even from the criminal history of the applicant it reflects, due to political background he has been made accused in these cases and number of cases were of minor nature for violation of government order.

13. He next submits, the criminal antecedents of the applicant are not of such nature on the basis of which his bail application should be withheld specially considering the fact that the gang chart of the case prima facie appears to be defective and he cannot be held guilty.

14. He further submits, in the present matter applicant is in jail since December, 2022 i.e. for last more than two and half years.

**Submissions advanced on behalf of the State:**

15. Per contra, learned Additional Advocate General opposed the prayer for bail and submits, applicant was Ex.-M.L.A. and he misused his position and he used to commit heinous offences like extortion, therefore, it cannot be said that he has been wrongly made accused in the present matter.

16. He further submits, applicant is a gang leader and with the help of the gang members he used to indulge in anti social activities. He further submits, however, only solitary case has been shown in the gang chart as base case against the applicant but law is settled that even on the basis of single case, a person can be made accused under the provisions of U.P. Gangsters Act.

17. He further submits, as solitary base case relates to Section 386 IPC i.e. extortion, therefore, it cannot be said that on the basis of said solitary case applicant should not be made accused under the provisions of U.P. Gangsters Act.

18. He next submits, even apart from the present case and solitary base case shown in the gang chart applicant is having criminal history of 16 other cases and in one case he has already been convicted, therefore, considering the provisions of Section 19(4) of U.P. Gangsters Act, applicant should not be released on bail.

19. He further submits, there is no material available before this Court on the basis of which this Court can reasonably believed that applicant is not guilty. He further submits, even from the gang chart it could not be reflected, it has been approved in violation of Rules 2021 and at this stage it cannot be said that without application of mind authorities concerned approved it.

20. He further submits, whether there is any illegality in the gang chart it can only be adjudicated by the trial court during trial and at the stage of bail, this Court cannot record any finding in this regard.

21. He further submits, therefore, considering the facts and circumstances of the case, the instant bail application should be dismissed.

**Analysis and conclusion:**

22. I have heard learned counsel for the parties and perused the record of the case.

23. Applicant is Ex.-M.L.A. and on the basis of solitary base case shown in the gang chart he has been made accused in the present matter.

24. However, as per prosecution, applicant is the gang leader and he along with his other gang members indulged in anti social activities but from the gang chart it reflects, it has been approved by Additional Commissioner of Police and Deputy Commissioner of Police on 24.12.2022 but Commissioner concerned has approved it on 25.12.2022, therefore, prima facie it appears, the gang chart has not been approved in the joint meeting of the authorities concerned which is against the Rule 5(3)(a) of 2021.

25. Further, even from the gang chart it reflects, in a very cryptic manner authorities concerned approved the gang chart and prima facie from the gang chart it could not be reflected, they applied their mind and therefore, it reflects, Rule 17 of 2021 has also not been complied with in its true spirit.

26. The Division Bench of this Court in the case of **Sanni Mishra @ Sanjayan Kumar Mishra** (supra) on which reliance was placed by learned counsel for applicant categorically held that the provisions of U.P. Gangsters Act are stringent and therefore they must be strictly followed and after considering, there is violation of Rules, 2021 Division Bench quashed the FIR. Even the Apex Court in case of Vinod Bihari Lal (supra) also observed that Rules 2021 should be followed before approving the gang chart.

27. The Apex Court in the case of Vinod Bihari Lal (supra) also observed that from the gang chart it must be reflected that authorities concerned before approving it has applied its mind.

28. Further, only on the basis of solitary base case shown in the gang chart applicant has been made accused in the present matter.

29. Further, however, apart from the present case applicant is having criminal history of 17 other cases including base case shown in the gang chart but his entire criminal history has been explained in the instant bail application.

30. Further, however, it reflects, in one case relates to offence under Sections

147, 436, 506, 327, 427, 386, 504, 120B IPC applicant has been convicted but against the conviction order, his appeal is pending and during pendency of his appeal this Court has enlarged him on bail.

31. Record also suggests that three cases have been withdrawn with the consent of the Court and in four cases final reports have been submitted and in remaining cases including the solitary base case applicant is on bail.

32. Further, considering the criminal antecedents of the applicant, the argument advanced by learned counsel for applicant that due to political background in these cases applicant has been made accused, cannot be completely ruled out at this stage.

33. Further, however as per Section 19(4) U.P. Gangsters Act before releasing an accused on bail, who is detained under the provisions of U.P. Gangsters Act it is necessary for the Court to satisfy that he is not guilty and he is not likely to commit offence while on bail but considering the fact that prima facie it appears, gang chart of the present case has been approved in violation of mandatory Rule, 2021, therefore, in the light of observation made by the Apex Court in the case of Vinod Bihari Lal (supra) it can be reasonably believed that applicant is not guilty.

34. Further, as this Court can reasonably believe, applicant is not guilty, therefore, on the basis of second condition mentioned under Section 19(4) of U.P. Gangsters Act in view of this Court, bail application of the applicant should not be withheld.

35. Further, apart from the provisions of Section 19(4) of U.P. Gangsters Act this Court is also not oblivious to the fact that while deciding the bail application, criminal antecedents of an accused is having its own importance but law is settled that if in a given case accused makes out a strong prima facie case then merely on the basis of criminal antecedents his bail application should not be withheld. (See: **Ayub Khan Vs. State of Rajasthan 2024 SCC OnLine SC 3763**).

36. In case at hand, as already observed, prima facie it appears, gang chart of the present case is not in accordance with Rule 2021 and on the basis of solitary base case applicant has been made accused, therefore, in view of this Court, merely on the basis of criminal antecedents of the applicant, his bail application should not be withheld.

37. Further, minimum two years sentence has been provided under Section 3(1) U.P. Gangsters Act which however can be extended up to ten years but applicant is in jail in the present case for last more than two and half years,

therefore, he has served more than minimum sentence provided under the Act.

38. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

39. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

40. Let the applicant - **Irfan Solanki** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

41. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

42. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

**September 25, 2025**

AK Pandey

**(Sameer Jain,J.)**