



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 6547 of 2025

Rajendra Tyagi And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	: Ronak Chaturvedi
Counsel for Opposite Party(s)	: G.A.

Court No. - 88

HON'BLE VINOD DIWAKAR, J.

1. In compliance with the order dated 12.11.2025, Shri Anup Trivedi, learned A.A.G., assisted by Shri Vibhav Anand Singh, learned A.G.A., has produced the instructions dated 26.11.2025, which are taken on record.
2. Upon examining the instructions, the justification provided by the Home Department is largely theoretical rather than one derived from empirical data. Reliance has been placed on certain provisions of the Code of Criminal Procedure-namely Sections 107, 117, 133, 144 and 145 Cr.P.C.- to justify excluding the District Magistrate(s) from the mandatory requirement under Rule 5(3)(a) of the U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021, about participation in the joint meeting in Commissionerate areas.
3. The instructions further contains the details about the compliance affidavit filed by the Principal Secretary, Home Department, Government of Uttar Pradesh, and places reliance on the notification dated 26.11.2022 issued under Section 20(2) of the Cr.P.C. replacing SSP and District Magistrate by Commissioner of Police (CP) and Deputy Commissioner of Police (DCP) in districts with police Commissionerate system so far as provisions of Gangsters Act are concerned, besides other Acts.
4. As per instructions, the District Magistrate is the head of the criminal administration of the district and occupies the pre-eminent position in taking a decision in matters concerning action(s) against organized criminals; however, in the police Commissionerate system, the Police Commissioner is the head of the criminal administration in the district. The Police

Commissioner also functions as the head of the 'Executive Magistracy' in the districts and supervises the preventive proceedings under sections 107-116, 113, 144 & 154 of the Cr.P.C. Additional details have also been provided regarding the professional profiles of the District Magistrate and the Commissioner of Police.

5. The instructions further disclose that police Commissionerates have predominantly been established in metropolitan cities of Uttar Pradesh having a population of more than 10 lacs. In metropolitan areas, the nature and volume of urban crime are different *vis-à-vis* their rural counterparts. Unlike rural districts where crime is often driven by local disputes and mitigated by community cohesion, metropolitan centres in Uttar Pradesh serve as hubs for sophisticated organised crime, including complex financial fraud, real estate syndicates, and cyber extortion. Data confirms that these areas bear a disproportionate share of the national crime rate, necessitating a highly specialized and agile response mechanism. Minimizing the administrative layer of the DM ensures that law enforcement agencies can rapidly dismantle these fast-moving criminal networks without bureaucratic latency. Since urban policing requires technical expertise in areas like economic offences and digital forensics-capabilities housed within the police force rather than the revenue administrations-direct police oversight ensures more effective enforcement against modern gangsterism.

6. The counter affidavit filed by the Principal Secretary (Home) and the instructions dated 27.11.2025 place substantial reliance on the proposition that the State is empowered to declare any district as a metropolitan area for administrative purposes, and that upon such declaration, the powers of the District Magistrate stand vested in the Commissioner of Police in terms of the notification dated 26.11.2022. For the avoidance of doubt, it is made clear that this Court entertains no confusion with respect to the authority of the legislative or executive branch to declare any district as a metropolitan area or to establish a Commissionerate for the purposes of administration and maintenance of law and order. The Court is with the Home Department on that count, and needs no clarification.

7. The concern of the Court lies elsewhere: namely, the recurring misuse of police powers and the over-application of stringent provisions of law to street-level and petty offenders, while actual gangsters and organized crime syndicates- those involved in narcotics trade, financial frauds, land mafia

activities, procurement of benami government contracts through sham companies, and white-collar criminals who harbor local offenders for ulterior motives- remain largely unaffected by a lack of systemic policy response. The State has not put in place any policy for the expeditious disposal of cases against such gangsters, for securing witness production, for the fair implementation of witness protection schemes, for ensuring timely production of prosecution witnesses in Court, or for sensitizing District Government Counsels to provide meaningful assistance to the Court, and over and above there is no program of the State Government to fix the accountability on the police except old fashioned departmental inquiries, often initiated against Inspector and below rank officers.

8. It has been observed that criminal trials against individuals, say for illustration, with two or more than two dozen FIRs have made no substantial progress even after two to three decades of the filing of a charge-sheet. Bail conditions are routinely flouted by gangsters and resourceful persons engaged in organized crime, as the JD (Prosecution) and the DGCs are not effectively discharging their duties to secure their presence before the Court on every date. Repetitive adjournment applications filed on behalf of accused persons are frequently allowed, while prosecutors neither object to such adjournments nor pursue cancellation of bail. There is no mechanism or State programme to regulate the affairs of prosecutors and to fix accountability.

9. At its core, the concept of a democratic State rests on the premise that every citizen is not only equal before law but equally entitled to its protection and equally significant in the eyes of a welfare State. Administrators must bear in mind that the choices they make ultimately shape the administration of justice- and history not only records those choices, it also repeats them. This Court reminds the Home Department that 'selective investigation' and 'selective prosecution' are antithetical to the rule of law and inevitably corrode public trust in governance.

10. In view of the aforesaid deliberations, and to satisfy the requirements of the issues flagged in orders dated 03.03.2025, 11.03.2025, and 12.11.2025 passed by this Court, it is hereby directed as follows:

(a) An affidavit shall be furnished by an officer not below the rank of Secretary, Home Department, Government of Uttar Pradesh, with the prior

approval of the competent authority. The affidavit shall contain: **(i)** the empirical data gathered from the district(s) and/or Commissionerate(s) on the basis of which the Department has arrived at its subjective satisfaction that, under the Commissionerate system functioning in terms of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, the exclusion of the District Magistrate from the joint meeting mandated under Rule 5(3)(a) is justified and is in the interest of the State and its citizens, and further has been capable of achieving the aforesaid objectives; **(ii)** details of any data, comparative analysis or study conducted by the Department to substantiate its claim that, subsequent to the introduction of the Commissionerate system, the crime rate has decreased in the district(s) where the system has been implemented as compared to those district(s) where the Commissionerate system has not been adopted, and **(iii)** details of any training programmes imparted to police officers who have been assigned to discharge functions earlier performed by the District Magistrates, along with particulars of any study undertaken by the State Government demonstrating whether the Home Department has been successful in achieving the intended objective.

10.1 The Director General of Police (Prosecution) shall furnish comprehensive district-wise data in respect of cases under the U.P. Gangsters and Anti-Social Activities (Prevention) Act for the last ten years by way of a separate affidavit, including: **(i)** number of cases registered; **(ii)** number of charge-sheets filed; **(iii)** number of convictions secured; and **(iv)** number of acquittals of charge-sheeted accused(s), with a comparative analysis *vis-à-vis* the non-Commissionerate district(s). The report shall also disclose the systemic reforms and policy decision(s), if any, taken by the Home Department to improve police working, so far as the approval of the gang-chart is concerned.

11. The Home Department shall also indicate; **(i)** the name(s) and number of officers- SSP/SP/DCP and above in police, and Joint Director (Prosecution) and DGC in prosecution department- against whom disciplinary or administrative action has been taken during the last ten years for acts of corruption, inefficiency, negligence, procedural lapses, misuse of power, or violation of guidelines in matters pertaining to the Gangsters Act or in any other ancillary issue; and **(ii)** the nature of such action, including warnings, adverse entries, suspensions, transfers, departmental inquiries, or any other penalties imposed. This information is being sought in view of the fact that both the Supreme Court and this Court have consistently encountered cases

revealing gross misuse of police powers, particularly in relation to the indiscriminate approval of gang-charts and the initiation of proceedings under the Gangsters Act. The aforesaid information and reports shall be submitted on or before the next date of listing.

12. The Registrar (Compliance) is directed forthwith to transmit a copy of this order to the A.C.S. (Home) and Director General of Police (Prosecution) for effective compliance.

12.1 A copy of this order be also transmitted to the Chief Secretary, Government of Uttar Pradesh, for ensuring compliance.

13. Put up this case as fresh on **09.12.2025 at 3:00 p.m.** for compliance and further consideration.

November 27, 2025

Anil K. Sharma

(Vinod Diwakar,J.)