



2026:AHC-LKO:39285

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 528 BNSS No. - 1918 of 2026

Rameez Nemat

.....Applicant(s)

Versus

State of U.P. Thru. Secy. Home Lko. and 4 others

.....Opposite Party(s)

Counsel for Applicant(s)	: Ruby Choudhary,
Counsel for Opposite Party(s)	: G.A.,

AFR

Court No. - 14

Reserved on: 26.05.2026

Delivered on: 29.05.2026

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri B. A. Khan Senior Advocate assisted by Sri S. A. Hussain and Ms. Ruby Choudhary, the learned counsel for the applicant and Sri G.D. Bhatt, the learned AGA-I for the State of U.P.

2. By means of the instant petition, the petitioner has challenged the validity of a charge-sheet dated 09.07.2025 filed in furtherance of FIR No. 181/2024 lodged at Police Station Tulsipur, District Balrampur for the offence under Section 3(1) of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 (hereinafter referred to as 'the Gangsters Act') against the applicant Ramiz Nemat and another accused person Rizwan Zaheer. The petitioner has also challenged the validity of an order dated 30.07.2025 passed by the Special Judge (POCSO Act), Balrampur whereby the Court has taken cognizance of the aforesaid offence and has summoned the petitioner to face trial.

3. The aforesaid FIR was lodged on 21.07.2024 at 00:40 hours by the Ashok Singh, the Inspector-in-Charge of the police station, stating that while the complainant was engaged in patrolling his police station area in his government jeep along with Head Constable Ashok Yadav, Constable Sumit Bhalla and Constable Shubham Sahu, he came to know that there is an organized intra-district gang of the applicant Ramiz Nemat and the other accused Rizwan Zaheer is its member. The members of this gang commit offences like land grabbing, make fatal assaults and commit murders for gaining temporal and pecuniary advantages. The accused persons had committed offences under Sections 323, 504, 506, 327, 307 & 447 IPC by putting a gun on the chest of one Abdul Mahmood Khan in the year 2002, regarding which Case Crime No. 183/2022 is lodged in Police Station Tulsipur, in which a charge-sheet has been submitted on 05.11.2022. The petitioner Ramiz Nemat had killed one Shakeel Ahmad on 06.10.2023 for grabbing Rs. 25 lakh, regarding which Case Crime No. 467/2023 has been lodged for the offence under Section 302 IPC at Police Station Kokhraj, District Kaushambi, in which a charge sheet has been submitted on 23.05.2024. The complainant stated that the aforesaid facts prima facie establish that the petitioner has an organized gang and he is habitual of committing offences mentioned in Chapter XVI of the Indian Penal Code (IPC) and Chapter VI of the Bhartiya Nyay Sanhita (BNS) and he commits offences in collaboration with the co-accused person Rizwan Zaheer. Due to terror of the accused persons, no person can gather the courage to lodge a report against them.

4. The FIR states that a gang-chart has been approved by the District Magistrate, Balrampur after the recommendation of the higher officials. The gang-chart annexed with the FIR mentions the Petitioner's name as gang leader and the other accused Rizwan Zaheer is mentioned as its member. The gang-chart shows involvement of the applicant in two cases- (1) Case Crime No. 183 of 2022, under Sections 323, 504, 506, 327, 307 & 447 IPC, Police Station Tulsipur, District Balrampur and (2) Case Crime No. 467 of 2023, under Section 302 IPC, Police Station

Kokhraj, District Kaushambi. The other accused-Rizwan Zaheer is shown involved in a solitary case bearing Case Crime No. 183 of 2022, under Sections 323, 504, 506, 327, 307 & 447 IPC. The other offence under Section 302 IPC mentioned in the gang-chart is said to have been committed by the petitioner alone and the other member of the gang is not alleged to be involved in committing that offence.

5. Strangely, the Inspector In-charge, Police Station Tulsipur had himself prepared the gang-chart on 07.07.2024 stating that the petitioner and the other gang member Rizwan Zaheer have formed an organized gang. They are active at the District level as well as inter-District level. They commit offences and commit murders for gaining temporal and pecuniary advantages. The complainant had mentioned in the gang-chart that the gang-leader (the petitioner) had killed one Mohd. Shakeel at a place within the jurisdiction of Police Station, Kokhraj, District Kaushambi on 06.10.2023 in connection with monetary transactions related to the sale-purchase of property, regarding which Case Crime No. 467 of 2023, under Section 302 IPC has been lodged at Police Station, Kokhraj, District Kaushambi, in which a charge-sheet has been submitted on 23.05.2024. Earlier also, Case Crime No. 183 of 2022, under Sections 325, 504, 506, 327, 307 & 447 IPC, Police Station Tulsipur, District Balrampur was lodged against the petitioner as well as co-accused Rizwan Zaheer wherein a charge-sheet has been submitted on 15.11.2023. The complainant - Inspector-in-Charge has written that he had prepared the gang-chart after proper scrutiny of the attached documents and there was sufficient ground to institute proceedings under the Gangsters Act.

6. A charge-sheet dated 09.07.2025 has been submitted after investigation in furtherance of the aforesaid FIR as per which, the investigation was carried out by the Inspector In-Charge, Police Station Pachpedwa and he found that the allegation levelled in the FIR regarding the offence under Section 3(1) of the Gangsters Act was established against the petitioner Rameez Nemat and the co-accused Rizwan Zaheer.

7. The learned Special Judge (POCSO Act) took cognizance of the offence by means of an order dated 30.07.2025 which states that the charge-sheet has been submitted before the court for taking cognizance. The learned defence counsel has not submitted any written or oral objections. The trial court has noted that the Inspector In-Charge, Pachpedwa has submitted the charge-sheet on 09.07.2025 and the supervising authority has forwarded the same with an endorsement dated 15.07.2025 that the charge-sheet be sent to the Court. The trial court has noted that sufficient evidence is available in the case diary for making out a case for trial of the accused persons. Accordingly, the trial court took cognizance of the offences and the petitioner was summoned to face the trial.

8. It has *inter alia* been pleaded in the petition challenging the validity of the charge-sheet and the summoning order that earlier also an FIR bearing Case Crime No. 54 of 2022 was lodged by the Inspector-in-Charge, Police Station Tulsipur, District Balrampur at Police Station Tulsipur, District Balrampur for the offence under Section 3(1) of the Gangsters Act against six persons, including the petitioner Rameez Nemat and the other accused person Rizwan Zaheer, stating that when the complainant was involved in patrolling in his area on 31.03.2022, he came to know that Rizwan Zaheer (co-accused in the present case) has formed an organized gang along with other accused persons. This gang caused murder of former Chairman Firoz @ Babu on 04.01.2022, for establishing their political clout and winning elections. FIR bearing Case Crime No. 2/2022, under Sections 302 & 120B IPC was lodged against unknown accused persons in this regard. During investigation, name of the leader and members of the gang came to light and a charge-sheet was submitted against them on 13.03.2022. During triple level Panchayat Elections, a gang members committed another incident on 26.04.2022, regarding which Case Crime No. 93/2021 was lodged for the offences under Sections 147, 149, 332, 353, 504, 506, 393, 307, 427 & 435 IPC and Section 7 of the Criminal Law Amendment Act. On 26.04.2021, FIR bearing Case Crime No. 94/2021 was lodged for the offences under

Sections 147, 149, 435, 427, 323, 504, 506 IPC and a charge-sheet has already been submitted. On 16.08.2020, the accused persons committed another offence regarding which Case Crime No. 195/2020 was lodged under Sections 323/506 IPC and a charge-sheet has been submitted in that matter also. The gang-chart annexed with the said FIR was prepared on 24.03.2022 and it shows involvement of the applicant and the other co-accused person in the aforesaid three offences. Rest of the four persons accused in Case Crime No. 54/2022 were shown to be involved in a solitary case bearing Case Crime No. 2/2022, under Sections 302/120B IPC, Police Station Tulsipur, District Balrampur.

9. It has also been pleaded that while the petitioner was already in jail, another FIR was lodged against him on 30.10.2024, i.e. Case Crime No. 299/2024, under Sections 308(5), 351(3) & 61 BNS, Police Station Kotwali Nagar, District Balrampur, in which the petitioner has been granted interim anticipatory bail by means of an order dated 11.06.2025 passed by a Coordinate Bench of this Court in Anticipatory Bail Application No. 653 of 2025.

10. It has further been pleaded in the petition that gang-chart has been prepared in violation of the provisions contained in Rule 5(3)(a) of the Gangsters Act and 16(1) and 17 of the UP Gangsters and Anti-Social Activities Prevention Rules, 2021.

11. The State has filed a counter affidavit stating that the Special Judge (POCSO Act) was conferred with the powers of the Special Judge (Gangsters Act) and, therefore, cognizance and summoning order has been passed in the exercise of jurisdiction conferred upon the court. It has further been stated that the gang-chart was approved in a joint meeting of the District Magistrate Balrampur and Superintendent of Police, Balrampur held on 18.07.2024. Minutes of the meeting have been annexed as Annexure No. CA-1, wherein it is recorded that the Superintendent of Police insisted for granting approval to the gang-chart keeping in view the public interest. The District Magistrate examined the gang-chart and the annexed documents. The gang-chart mentions two

criminal cases in which charge-sheet has been submitted. The Superintendent of Police informed about the criminal history of the accused persons and their criminal activities. After perusal of the material available on record and the criminal history of the accused persons, the District Magistrate found sufficient grounds for approval of the gang-chart and, accordingly, he approved it.

12. It has also been stated in the counter affidavit that the petitioner Rameez Nemat is involved in as many as 10 criminal cases, which are as follows:-

Sl. No.	Case Crime No.	Sections	Police Station	District	Result	Status in Court
1.	93/21	147/149/332/353/504/506/393/307/427/435 IPC & 7 CL. Act	Tulsipur	Balrampur	Charge Sheet dated 05.10.2021	Acquitted on 29.11.2025
2.	94/21	147/149/435/427/323/504/506 IPC	Tulsipur	Balrampur	Charge Sheet dated 28.05.2021	Next date for evidence 19.05.2026
3.	02/22	302/120B IPC	Tulsipur	Balrampur	Charge Sheet dated 13.03.2022	Arguments complete, next date fixed is 07.05.2026
4.	54/22	3(1) of the UP Gangster Act	Tulsipur	Balrampur	Charge Sheet dated 17.09.2022	Next date for arguments is 12.05.2026
5.	Nil/22	3(2) National Security Act dated 19.05.2022	Tulsipur	Balrampur	Approval rejected by Advisory Board dated 28.06.2022	
6.	183/22	323/504/506/327/307/447 IPC	Tulsipur	Balrampur	Charge Sheet dated 05.11.2022	Next date for arguments is 12.05.2026
7.	467/23	302 IPC	Kokhraj	Balrampur	Charge Sheet dated 23.05.2024	Next date for charge is 12.05.2026
8.	181/24	3(1) of the UP Gangster Act	Tulsipur	Balrampur	Charge Sheet dated 09.07.2025	Next date for charge is 07.05.2026
9.	186/24	419/420/467/468/471/120B IPC	Tulsipur	Balrampur	Charge Sheet dated 26.01.2025	Next date for charge is 19.05.2026
10.	299/24	308(5)/351(3)/ 61 BNS	Kotwali Nagar	Balrampur	Under consideration	

13. The petitioner has filed a rejoinder affidavit refuting the averments made in the counter affidavit.

14. Although the learned Counsel for the petitioner had initially submitted that cognizance of an offence under the Gangsters Act can be taken only by the Special Judge, Gangsters Act and the Learned Special Judge, POCSO Act does not have to take cognizance of the offence under the Gangsters Act, but after the State filed the counter affidavit and the learned AGA-I produced a copy of the Notification whereby jurisdiction in respect of the offence under the Gangsters Act has been conferred upon the Special Judge POCSO Act, Balrampur, he did not press this submission.

15. The learned counsel for the petitioner has submitted that the narration made in the FIR that the complainant Inspector-in-Charge came to know about the existence of the gang and its criminal activities during patrolling on 20.07.2024, is patently false as the Inspector-in-Charge himself had prepared and forwarded the gang chart on 07.07.2024. It indicates that the story narrated by the complainant police officer is false on the face of the FIR itself and it implies malice on the part of the police authorities.

16. The learned Counsel for the petitioner has further submitted that the Superintendent of Police has forwarded the gang-chart on 16.07.2024. The meeting of the District Magistrate and the Superintendent of Police is alleged to have taken place on 18.07.2024. The Superintendent of Police has signed the minutes of meeting mentioning the date of signing as 18.07.2024 whereas the District Magistrate has not mentioned the date of putting his signatures on the minutes of the meeting, which shows that in fact no meeting of the Superintendent of Police and District Magistrate was held and the District Magistrate has approved the chart in a mechanical manner without holding a meeting with the Superintendent of Police.

17. The learned counsel for the petitioner has placed reliance upon a judgment of the Hon'ble Supreme Court in the case of ***Vinod Bihari v. State of UP & Anr.***: 2025 SCC Online SC 1216 and ***Gabbar Singh @ Devendra Pratap Singh @ Rajesh Singh v. State of U.P.***: 2026 SCC Online SC 451 and three decisions rendered by Division Benches of this Court in ***Sanni Mishra @ Sanjayan Kumar Mishra v. State of U.P.***: 2023 SCC Online All 2975, ***Abdul Latif @ Mustak Khan v. State of U.P.***:2024:AHC:119716-DB and ***Sukarmpal @ Amit Jat v. State of U.P.***:2024 SCC OnLine All 5848.

18. After perusing the minutes of meeting of the Superintendent of Police and the District Magistrate annexed with the counter affidavit, I am satisfied that the meeting was held and I turn down the submission of the learned Counsel for the petitioner that the gang-chart has not been approved in a joint meeting of the District Magistrate and the Superintendent of Police.

19. Although the District Magistrate ought to have mentioned the date under the signatures put on the minutes of the meeting, like the Superintendent of Police has done, the mere non-mention of the date under the signature would not conclusively establish that no meeting of the District Magistrate and the Superintendent of Police was held.

20. Further, Section 114 of the Evidence Act provides as follows: -

“114. Court may presume existence of certain facts.—The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustrations

The Court may presume—

* * *

(e) that judicial and official acts have been regularly performed;”

Similarly, Section 119 of Bhartiya Sakshya Adhiniyam, 2023 provides that: -

“119. Court may presume existence of certain facts.—(1) The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustrations

The Court may presume that—

(e) judicial and official acts have been regularly performed;”

Therefore, it has to be presumed that the meeting of the District Magistrate and the Superintendent of Police was held in a regular manner.

21. Now I proceed to examine whether the allegations levelled in the FIR and the material collected during investigation justify the submission of the charge-sheet and whether there was sufficient ground before the trial Court for taking cognizance of the offence under the Gangsters Act.

22. The allegations levelled in the FIR are that that while the complainant Inspector-in-charge of the Police Station was engaged in patrolling his police station area, he came to know that there is an organized intra-district gang of the applicant Ramiz Nemat and the other accused Rizwan Zaheer is its member. The members of this gang commit offences like land grabbing, make fatal assaults and commit murders for gaining temporal and pecuniary advantages. They are involved in Case Crime No. 183/2022 under Sections 323, 504, 506, 327, 307 & 447 IPC, Police Station Tulsipur, and the petitioner Ramiz Nemat is involved in Case Crime No. 467/2023 under Section 302 IPC, Police Station Kokhraj, District Kaushambi. The complainant stated that the aforesaid facts prima facie establish that the petitioner has an organized gang and he is habitual of committing offences mentioned in Chapter XVI of the Indian Penal Code (IPC) and Chapter VI of the Bhartiya Nyay Sanhita (BNS) and he commits offences in collaboration with the co-accused person Rizwan Zaheer. Due to terror of the accused persons, no person can gather the courage to lodge a report against them.

23. The gang-chart annexed with the FIR mentions the Petitioner's name as gang leader and the other accused Rizwan Zaheer is mentioned as its member. The gang-chart shows involvement of the applicant in two cases- (1) Case Crime No. 183 of 2022, under Sections 323, 504, 506, 327, 307 & 447 IPC, Police Station Tulsipur, District Balrampur and (2) Case Crime No. 467 of 2023, under Section 302 IPC, Police Station Kokhraj, District Kaushambi. The other accused-Rizwan Zaheer is shown involved in a solitary case bearing Case Crime No. 183 of 2022, under Sections 323, 504, 506, 327, 307 & 447 IPC. The other offence under Section 302 IPC mentioned in the gang-chart is said to have been committed by the petitioner alone and the other member of the gang is not alleged to be involved in committing that offence.

24. Strangely, the Inspector In-charge, Police Station Tulsipur had himself prepared the gang-chart on 07.07.2024 and had forwarded the same to his higher authorities. stating that the petitioner and the other gang member Rizwan Zaheer have formed an organized gang. They are active at the District level as well as inter-District level. They commit offences for gaining temporal and pecuniary advantages. The complainant had mentioned in the gang-chart that the gang-leader (the petitioner) had killed one Mohd. Shakeel at a place within the jurisdiction of Police Station, Kokhraj, District Kauhambi on 06.10.2023 in connection with monetary transactions related to the sale-purchase of property, regarding which Case Crime No. 407 of 2023, under Section 302 IPC has been lodged at Police Station, Kokhraj, District Kaushambi, in which a charge-sheet has been submitted on 23.05.2025. Earlier also, Case Crime No. 183 of 2022, under Sections 323, 504, 506, 327, 307 & 447 IPC, Police Station Tulsipur, District Balrampur was lodged against the petitioner as well as co-accused Rizwan Zaheer wherein a charge-sheet has been submitted on 15.11.2022. The complainant - Inspector-in-Charge has written that he had prepared the gang-chart after proper scrutiny of the attached documents and there was sufficient ground to institute proceedings under the Gangsters Act.

25. It is strange that the Inspector In-Charge who had himself prepared gang-chart on 07.07.2024 and had forwarded the same to the Circle Officer, has written in the FIR lodged on 21.07.2024 that he came to know about the existence of the gang and involvement of its members in commission of offences namely Case Crime No. 183 of 2023 and Case Crime No. 467 of 2023, during patrolling in the area on 20.07.2024. Therefore, I find force in the submission of the learned Counsel for the petitioner that the narration made in the FIR that the complainant Inspector-in-Charge came to know about the existence of the gang and its criminal activities during patrolling on 20.07.2024, is patently false as the Inspector-in-Charge himself had prepared and forwarded the gang chart on 07.07.2024. It indicates that the story narrated by the complainant police officer is false on the face of the FIR itself and it implies malice on the part of the police authorities.

26. A charge-sheet dated 09.07.2025 has been submitted after investigation in furtherance of the aforesaid FIR as per which, the investigation was carried out by the Inspector In-Charge, Police Station Pachpedwa and he found that the allegation levelled in the FIR regarding the offence under Section 3(1) of the Gangsters Act was established against the petitioner Rameez Nemat and the co-accused Rizwan Zaheer.

27. The learned Special Judge (POCSO Act) took cognizance of the offence by means of an order dated 30.07.2025 which states that the charge-sheet has been submitted before the court for taking cognizance. The learned defence counsel has not submitted any written or oral objections. The trial court has noted that the Inspector In-Charge, Pachpedwa has submitted the charge-sheet on 09.07.2025 and the supervising authority has forwarded the same with an endorsement dated 15.07.2025 that the charge-sheet be sent to the Court. The trial court has noted that sufficient evidence is available in the case diary for making out a case for trial of the accused persons. Accordingly, the trial court took cognizance of the offences and the petitioner was summoned to face the trial.

28. Before proceeding any further, it would be appropriate to have a look at the definition of “gang” as set out in Section 2(b) of the Act of 1986, which reads thus: -

*“(b) “Gang” means a group of persons, who acting either singly or collectively, by violence, or threat or show of violence, or intimidation, or coercion or otherwise **with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person**, indulge in anti-social activities, namely—[...]*”

29. Section 2(b) of the Act of 1986 should be read alongwith Rule 3 of the U.P. Gangster and Anti-Social Activities (Prevention) Rules, 2021 (hereinafter referred to as the ‘Gangster Rules 2021’), which provides as follows: -

“3. Conditions of criminal liability.- (1) The offences mentioned in sub sections (i) to (xxv) of clause (b) of Section 2 of the Act shall be punishable under the Act only if they are:—

*(a) **committed for disturbing public order; or***

*(b) committed by causing violence or threat or display of violence, or by intimidation, or coercion or otherwise, either singly or collectively, **for the purpose of obtaining any unfair worldly, economic, material, pecuniary or other advantage to himself or to any other person.**”*

30. In **Vinod Bihari Lal v. State of U.P.**: 2025 SCC OnLine SC 1216, the Hon’ble Supreme Court carried out a detailed analysis of the provisions of the Gangsters Act and the Rules and the relevant passage of the judgment is being reproduced below: -

“20. The definition of “gang” under Section 2(b) of the Act of 1986 comprises the following essentials;

i. A group of persons i.e., there can be no gang of one person;

ii. The group of persons, acting either individually or collectively, indulges in anti-social activities as enumerated in clauses (i) to (xxv) of Section 2(b);

iii. Indulgence in such anti-social activities is by means of violence, or threat, or show of violence, or intimidation, or coercion, or otherwise;

iv. Use of such means is with the object of disturbing public order, or gaining any undue temporal, pecuniary, material or other advantage for himself or any other person.

21. It is apparent that the definition of the term “gang” is not attracted by mere association with a miscreant group. For such a group to metamorphize into a gang, it must engage in anti-social activities enumerated in clauses (i) to (xxv) of Section 2(b), and these must be committed for the object mentioned thereunder. In essence, a group of persons falls within the ambit of Section 2(b) only when the requirements set forth in Rule 3 are satisfied.

22. This Court in *Shraddha Gupta v. State of Uttar Pradesh*, reported as (2022) 19 SCC 57, held that an accused can be termed as “gangster” when he as a member of a gang, has indulged in any of the enumerated anti-social activities, whether by means expressly stated or otherwise, with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person. The relevant observations are reproduced hereinbelow:

“25. A group of persons may act collectively or any one of the members of the group may also act singly, with the object of disturbing public order indulging in anti-social activities mentioned in Section 2(b) of the Gangsters Act, who can be termed as “gangster”. A member of a “gang” acting either singly or collectively may be termed as a member of the “gang” and comes within the definition of “gang”, provided he/she is found to have indulged in any of the anti-social activities mentioned in Section 2(b) of the Gangsters Act.

xxx

27. As per the settled position of law, the provisions of the statute are to be read and considered as it is. Therefore, considering the provisions under the Gangsters Act, 1986 as they are, even in case of a single offence/FIR/charge-sheet, if it is found that the accused is a member of a “gang” and has indulged in any of the anti-social activities mentioned in Section 2(b) of the Gangsters Act, such as, by violence, or threat or show of violence, or intimidation, or coercion or otherwise with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person and he/she can be termed as “gangster” within the definition of Section 2(c) of the Act, he/she can be prosecuted for the offences under the Gangsters Act.”

(Emphasis in original)

23. A Full Bench of the High Court of Allahabad in *Ashok Kumar Dixit v. State of U.P.*, reported as 1987 SCC OnLine All 203, while deciding on the constitutional validity of the Act of 1986 noted that the term “gang” means a group of persons who by violence, or threat, or show of violence, or intimidation, or coercion, or otherwise indulge in anti-social activities with the object of disturbing public order or

gaining any undue temporal or pecuniary material or other advantage for himself. The relevant observations are reproduced hereinbelow:

“12. Section 2(b) defines the term “Gang” to mean a group of persons who by violence, or threat, or show of violence or intimidation or coercion etc. indulge in anti-social activities with the object of disturbing public order of gaining any undue temporal or pecuniary material or other advantage for himself. S. 2(b) read as a whole necessarily brings in the concept of violence or intimidation or coercion etc. which is resorted to for gaining material advantage. Then we have cl. (c) of S. 2 which defines the word “Gangster”. It means a member or leader or organiser of a group which indulges in the kind of activities set out under the various sub-clauses of cl. (b) of S. 2, by use of violence or threat or show of violence or intimidation etc. S. 3(i) lays down the penalty for being the member or leader or organiser of a group which engages or indulges in the kind of unsocial activities enumerated under S. 2(b) by use of violence etc.”

(Emphasis in original)

24. A more lucid exposition of the essential requirements was provided in the recent decision of Sukarmpal v. State of U.P., reported in 2024 SCC OnLine All 5848. The relevant observations are reproduced hereinbelow:

“11. From the definition of gang under Section 2(b) of the Gangster Act, it is clear that merely becoming a member of a gang will not be punishable unless the gang falls within the purview of Section 2(b) of Gangster Act and for the punishment of the member or organizer or leader of a gang under the Gangster Act, conditions mentioned in Rule 3 must be fulfilled, which prescribes that offence mentioned in Sub-section (i) to (xxv) of Section 2(b) of the Gangster Act must be committed for disturbing public order or committed by causing violence or threat or coercion or otherwise for the purpose of obtaining unfair trustworthy, pecuniary, economic, material or other advantage. Therefore, merely because a person has committed any offence mentioned in Sub-section (i) to (xxv) of sub-section (b) of Section 2 of the Gangster Act will not itself come within the purview of the Gangster Act unless he is member of a gang falling under Section 2(b) of Gangster Act.

12. Even the Rule 4(2) of the Gangster Rules itself provides that, if a member of a gang has committed any offence which comes within the purview of the Act along with any other members then he will be presumed to be a gang. Therefore, punishing a person under the Gangster Act basic condition to be a member of a gang under Section 2(b) of the Gangster Act must be satisfied.

13. Rule 6 of the Gangster Rules also provides that at the time of preparation of gang chart, it must be mentioned that act of gang falls

within the purview of Section 2(b) of the Gangster Act. Therefore, it is clear that for bringing an offence within the purview of Gangster Act, it must be committed by a member of a gang for the object mentioned in Section 2(b) of the Gangster Act by doing the activities mentioned in Sub-Section (i) to (xxv) of Clause (b) of Section 2 of the Gangster Act. Therefore, if any offence is committed whether the same falls within the category of Sub-Section (i) to (xxv) of Section 2(b) of the Gangster Act or not, that will not come within the purview of the Gangster Act unless the same is done with the object mentioned in Section 2(b) of the Gangster Act.”

(Emphasis in original)

25. From the above exposition of law, a group of persons may be said to constitute a gang only when they, either singly or collectively, indulge in any of the anti-social activity enumerated in clauses (i) to (xxv) of Section 2(b), by means specified therein, or otherwise, and most importantly, with the object of disturbing public order, or securing any undue temporal, pecuniary, material or other advantage for himself or any other person.

* * *

30. The contents of the chargesheet reflect a casual and cavalier attitude on the part of the investigating agency, as it discloses nothing beyond what was already stated in the subject FIR. Further, it remains obscure how the investigating authorities could assert that the offence under Section(s) 2 and 3 respectively stands “proved” against the appellant sans enclosing any documentary proved. We strongly disapprove of this practice and cast it into the cold storage wherein the investigating authority proclaims an offence to be “proved”. We would like to remind that the role of investigating agencies is strictly circumscribed to conducting an impartial investigation into the alleged crime; the guilt or the innocence of the accused is for the trial court to determine.

31. It is noteworthy to mention that the subject FIR was registered after approximately a year from the date of the registration of the first base FIR. In the three base FIRs - FIR No. 726/2017, FIR No. 761/2017, and FIR No. 244/2017, respectively, the allegations against the appellant pertain to offences under Chapters 16, 17 and 22 of the IPC and thus, may fall within the scope of anti-social activities itemized under Section 2(b). Even assuming, for the sake of argument, that these acts were committed by any of the means specified therein, they do not, even in the remotest possibility, appear to us that they had been committed with the object of disturbing public order or to gain any undue temporal, pecuniary, material or other advantage for himself or any other person.

* * *

36. In the facts and circumstances of the case, more particularly, in view of the vague and general allegations levelled in the subject FIR, requiring the appellant to stand trial would amount to nothing but an abuse of the process of law. Non-interference in such a case would result in miscarriage of justice.

* * *

59. We also deem it necessary to make certain observations regarding the investigation conducted pursuant to the approval of the gang-chart and the registration of the subject FIR under the Act of 1986 respectively. Rule 20 mandates that, during the course of investigation, evidence pertaining to the elements of economic, material, and worldly benefits must be specifically collected. Upon being satisfied that credible, substantial, and logically coherent evidence has been compiled in accordance with the requirements of the Act, the Additional Superintendent of Police shall forward the report to the Senior Superintendent of Police/Superintendent of Police for sanction.

60. In the present case, the sanction order merely states that, based on the examination of the evidence collected, the accused were found to be involved in the commission of offences under the IPC by forming a gang with the objective of deriving economic and monetary benefits, and that a prima facie case exists for filing a chargesheet under Section(s) 2 and 3 of the Act of 1986.”

31. The judgment in the case of **Vinod Bihari Lal** (supra) was followed in *Gabbar Singh v. State of U.P.*, 2026 SCC OnLine SC 451, in which the Hon’ble Supreme Court further held that: -

“11. We fall back upon the principle that when a particular thing is to be done, it should be done in the manner stipulated; here statutorily prescribed, or not at all. Especially when at stake is the liberty of an individual, precious to all and possible of breach only in accordance with law. More so in the precarious nature of the law, which permits mere naming of a person, as a gangster and automatic condemnation, which perilous consequences we leave to be considered in an appropriate case.”

32. The difference between ‘public order’ and ‘law and order’ was considered by the Hon’ble Supreme Court in **Subhash Bhandari v. District Magistrate**: (1987) 4 SCC 685. There was a tender for the supply of ballast in PWD. It was alleged that on account of the appellant’s terror no other person submits any tender against him and he obtained tenders at rates of his choice. If any other person submitted his tender, the appellant terrorized him. However, another person submitted

tender at a lower rate, which was accepted. For this reason the appellant bore a grudge against the complainant. For this reason, the appellant and his accomplices fired at the complainant with intention of killing him and they threw hand-grenades which fell on the car of the complainant. Consequently, there was a commotion. Traffic was obstructed and public tranquility was disturbed. In the backdrop of the above mentioned facts, the Hon'ble Supreme Court proceeded to formulate the question to be decided as follows:—

“8. The main question which falls for decision is whether the act referred to in the grounds of detention is directed against certain individuals creating a law and order problem or the reach and potentiality of the act is so deep as to disturb the society to the extent of causing a general disturbance of public tranquility.”

The aforesaid question was decided by the Hon'ble Supreme Court in the following manner:—

*“9. It has now been well settled by several decisions of this Court (the latest one being Gulab Mehra v. State of U.P. [(1987) 4 SCC 302] judgment which was pronounced by us on September 15, 1987) that **public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order or it affects public order. It has also been observed by this Court that an act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Therefore it is the impact, reach and potentiality of the act which in certain circumstances affect the even tempo of life of the community and thereby public order is jeopardized. Such an individual act can be taken into consideration by the detaining authority while passing an order of detention against the person alleged to have committed the act.***

10. In the instant case the alleged act of assault by firearms is confined to the complainant Surya Kumar and not to others. It is an act infringing law and order and the reach and effect of the act is not so extensive as to affect a considerable members (sic number) of the society. In other words, this act does not disturb public tranquillity nor does it create any terror or panic in the minds of the people of the locality nor does it affect in any manner the even tempo of the life of the

community. This criminal act emanates from business rivalry between the detenus and the complainant. Therefore such an act cannot be the basis for subjective satisfaction of the detaining authority to pass an order of detention on the ground that the impugned act purports to affect public order i.e. the even tempo of the life of the community which is the sole basis for clamping the order of detention.....”

(emphasis supplied)

33. In **State of U.P. v. Kamal Kishore Saini**: (1988) 1 SCC 287, the Hon’ble Supreme Court held that: -

12. ... whether an act relates to law and order or to public order depends upon the effect of the act on the life of the community or in other words the reach and effect and potentiality of the act; if so put as to disturb or dislocate the even tempo of the life of the community, it will be an act which will affect public order.

13. In the instant case, the criminal acts referred to in Ground 1 are to the effect that on 4-6-1985 at about 11 p.m. some persons informed the complainant that his brother had been shot by some persons and when the complainant reached the spot he found his brother Vishnu Narain Awasthi lying in a pool of blood and he had already died. Crime Case No. 109 of 1985 under Section 302 IPC was registered at Ghazipur Police Station. This incident is confined to individual persons and it is private crime as distinct from public crime. It does not in any way affect the even tempo of the life of the community nor does it affect the peace and tranquillity of people of that particular locality where the crime has been committed. So far as the second crime referred to in Ground 2 is concerned, it is to the effect that the complainant went to Lucknow Jail along with his son, Ram Kumar and son-in-law, Nand Kishore to see an accused in the District Jail. They could not meet the accused. Ram Kumar and Nand Kishore proceeded towards home in one rickshaw while the complainant was coming by another rickshaw. When they reached a little distance from the jail near the residence of the Jail Superintendent at about 1.45 p.m. the detenus Rajiv Hazra and Kamal Kishore Saini along with another one Anandi Shukla said to be the accomplice of one Ram Gopal, came on a scooter, stopped it and challenged Ram Kumar and Nand Kishore and the complainant. They fired at them. The complainant, Ram Kumar and Nand Kishore ran helter-skelter. The accused chased Ram Kumar and fired twice or thrice and in consequence of it Ram Kumar fell dead on the spot and Nand Kishore and the rickshaw-puller sustained injuries. On these basis Crime Case No. 222 of the 1985 under Sections 302/307 IPC was registered on 13-6-1985. This firing was made in a public street during the daytime. This incident does affect public order as its reach and impact is to disturb public tranquillity and it affects the even tempo of

the life of the people in the locality where the incident is alleged to have occurred. Therefore, the finding of the High Court with regard to this incident that it did not disturb in any way the public order is not legal and valid.”

34. The difference between ‘public order’ and ‘law and order’ has been considered in a judgment rendered by a Division Bench of this Court in **Abhayraj Gupta v. Central Jail**, 2021 SCC OnLine All 900, in which after considering various precedents on the point, the Division Bench concluded that: -

“32. The law which has emerged from the precedents on this point is that public order is said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order or a disturbance to public order. It means therefore that the question whether a person has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society, which depends the facts of each particular case.”

35. In the present case, there is no material that the act alleged by the petitioner had the effect of disturbing the even tempo of the life of the community or the public at large, as distinguished from the act directed against the victims of the offences. There is no material to establish that offences committed by the petitioner or his gang disturb the society to the extent of causing a general disturbance of public tranquillity. There is no material to establish that the acts alleged had been committed for disturbing public order. Therefore, the requirement of Section 2(b) of the Gangsters Act and Rule 3 (1) (a) of the Gangster Rules, 2021, is not fulfilled.

36. The other contingency in which a person may be tried for an offence under Section 2(b) of the Gangsters Act, read with Rule 3(1)(c) of the

Gangsters Rules, 2021 is that the offence was committed with the object of gaining any undue temporal, pecuniary, material or other advantage.

37. Besides a bald allegation levelled in the FIR that the petitioner Ramiz Nemat had killed one Shakeel Ahmad on 06.10.2023 for grabbing Rs. 25 lakh, regarding which Case Crime No. 467/2023 has been lodged for the offence under Section 302 IPC at Police Station Kokhraj, District Kaushambi, in which a charge sheet has been submitted on 23.05.2024, there is no material available on record to even prima facie establish that the petitioner had committed the aforesaid offence for any pecuniary advantage. There is no charge for the offence of extortion in that case.

38. In absence of the petitioner having been charged for the offence of extortion or attempt to make extortion of money, it cannot be said that merely because the petitioner is an accused for an offence under Section 302 IPC, the said offence was committed for gaining any pecuniary advantage.

39. The investigating officer has committed the charge-sheet without recording satisfaction that the offences mentioned in the gang-chart were committed for disturbing public order or with the object of gaining any undue temporal, pecuniary, material or other advantage. The Superintendent of Police has forwarded the gang-chart and the District Magistrate has approved the same without recording a satisfaction regarding fulfilment of the conditions of Section 2(b) of the Gangsters Act and Rule 3(1) of the Gangsters Rules, 2021.

40. The learned trial Court has taken also taken cognizance of the offence in a mechanical manner, without recording a satisfaction regarding fulfilment of the conditions of Section 2(b) of the Gangsters Act and Rule 3(1) of the Gangsters Rules, 2021, which vitiates the order taking cognizance of the offence and summoning the accused to face the trial, for which reason the summoning order is unsustainable in law.

41. In view of the foregoing discussion, the petition is **allowed**. The charge-sheet dated 09.07.2025 filed in furtherance of FIR No. 181/2024

lodged at Police Station Tulsipur, District Balrampur for the offence under Section 3(1) of the Gangsters Act against the applicant Ramiz Nemat and co-accused Rizwan Zaheer and the order dated 30.07.2025 passed by the Special Judge (POCSO Act), Balrampur taking cognizance of the aforesaid offence and summoning the petitioner to face trial, are **quashed**. The necessary consequences to follow.

(Subhash Vidyarthi,J.)

May 29, 2026

Pradeep/-