



2026:AHC:50297

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 8752 of 2025

Mansoor Ansari

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Upendra Upadhyay
Counsel for Respondent(s)	:	G.A.

Reserved

Court No. - 91

HON'BLE RAJ BEER SINGH, J.

1. This appeal has been preferred under Section - 18 of U.P. Gangster and Anti Social Activities (Prevention) Act, 1986 (hereinafter referred as Gangster Act), against judgment and order dated 02.09.2025, passed by learned Additional Sessions Judge, FTC-I, Ghazipur in Criminal Miscellaneous No. 33 of 2024 (State Vs. Mansoor), whereby the application filed by appellant in reference under Section - 16(1) U.P. Gangster Act, against attachment of property, has been rejected.

2. Heard learned counsel for the appellant, learned A.G.A. for the State and perused the record.

3. Learned counsel for the appellant submitted that the impugned order passed by learned Additional Sessions Judge, F.T.C.-I, Ghazipur / Special Judge (Gangster Act) as well as the order of attachment passed by the District Magistrate are not in accordance with law and the same are arbitrary. No case under the provisions of Gangster Act was registered against appellant. A case against one Mukhtar Ansari and others was registered way-back in the year 2007 but appellant has no concern with

that case. The proceedings of attachment were initiated on 21.02.2023 on the basis of a police report, wherein merely a bald allegation was made that appellant has constructed shops at his immovable property from the resources acquired by committing offences described under Gangster Act. The immovable property, where the construction was made, is parental property of appellant and this fact could not be disputed from the side of State. As per report of P.W.D., the valuation of said property was Rs. 26,18,025/- and appellant has explained that he has constructed the said building by selling his other ancestral property against consideration of Rs. 20 lakhs. Alleged valuation of the disputed property was made after two years of the construction. In view of these facts and circumstances, such a variance in valuation of the property is quite possible and normal. The learned trial Court has failed to consider the evidence on record produced by the appellant.

4. It is further submitted that the U.P. Gangster Rules were enforced on 27.12.2021. In this matter, while initiating attachment proceedings, the mandatory provisions of Gangster Rules were not followed and on this account also the impugned orders are bad in eye of law. Referring to case of **Vaishali Kapoor and Another Vs. State of U.P. and Another**; 2024 AHC 16118 and **Babu Khan Vs. State of Uttar Pradesh**; 2024 0 Supreme(All) 999, it was submitted that it is the State, which has to satisfy that the disputed property was acquired by the appellant from the financial resources acquired through commission of offences mentioned in the Gangster Act. In the instant matter, the State has utterly failed to discharge that burden. Appellant has never been associated with any gang and there is no evidence that he has acquired any property by way of commission of offences described under Gangster Act. Referring to facts

of the matter, it was submitted that impugned order passed by learned Additional Sessions Judge / Special Judge (Gangster Act), as well as the orders of attachment passed by the District Magistrate, are wholly against law and evidence and thus, liable to be set aside.

5. Learned A.G.A. has opposed the appeal and submitted that there is no illegality or perversity in the impugned order passed by the learned Special Judge (Gangster Act) and in the orders of attachment passed by the District Magistrate. It was submitted that one Mukhtar Ansari was convicted by the trial Court under Section - 3(1) U.P. Gangster Act and he was sentenced to ten years rigorous imprisonment. It was submitted that in fact the disputed property is '*benami*' property of Gangster Mukhtar Ansari. The disputed property was attached in accordance with law and the objections preferred by appellant were rejected by a detail and reasoned order. The valuation of disputed property was found Rs. 26,18,025/- and appellant has failed to explain the source of said amount. It is further submitted that learned Additional Sessions Judge / Special Judge (Gangster Act) has considered entire facts and evidence and the reference under Section - 16 Gangster Act was rejected by a reasoned order. It was submitted that there is no illegality or perversity in the impugned orders.

6. I have considered the rival submissions and perused the record.

7. Before proceeding further, it would be appropriate to quote the provisions of Section 2(b) and 2(c) of the Gangster Act, which read as under :-

"2(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

2(c). "gangster" means a member or leader or organiser of a gang and includes any person who abets or assists in the activities of a gang enumerated in clause (b), whether before or after the commission of such activities or harbours any person who has indulged in such activities;"

8. On a conjoint reading of Section 2(b) and 2(c) of the Gangster Act, it appears that for taking action under Section 14 of the Gangster Act against a person, there must be material for objective determination of the District Magistrate that he either, as a member, leader or organiser of a gang acquired any property as a result of commission of any offence mentioned under the Gangster Act. There must be a nexus between his criminal act and the property acquired by him. His mere involvement in any offence is not sufficient to attach his property, as it is necessary to find out whether his acquisition of property was a result of commission of any offence enumerated in the Gangster Act being a gangster. Further, one might have committed several offences but if the property is acquired by him with the aid of his earning from legal source, no action under Section 14 of the Act can be taken against him.

9. Section - 14 of the Gangster Act reads as under :-

"14. Attachment of property.- (1) If the District Magistrate has reason to believe that any property, whether movable or immovable, in possession of any person has been acquired by a gangster as a result of the commission of an offence triable under this Act, he may order attachment of such property whether or not cognizance of such offence has been taken by any Court.

(2) The provisions of the Code shall mutatis mutandis apply to every such attachment.

(3) Notwithstanding the provisions of the Code the District Magistrate may appoint an Administrator of any property attached under sub-section (1) and the Administrator shall have all the powers to administer such property in the best interest thereof.

(4) The District Magistrate may provide police help to the Administrator for proper and effective administration of such property."

10. In case of **Babu Khan** (*supra*), the Court has held as under :-

"20. It is now well settled that property being made subject matter of an attachment under Section 14 of the Act must have been acquired by a gangster and that too by commission of an offence triable under the Act. The District Magistrate has to record its satisfaction on this point. The satisfaction of the District Magistrate is not open to challenge in any appeal. Only a representation is provided for before the District Magistrate himself under Section 15 of the Act and in case he refuses to release the property on such representation, in that case the person aggrieved has to make a reference to the Court having jurisdiction to try an offence under the Act. The Court, while dealing with the reference made under sub-section (2) of Section 16 of the Act has to see whether the property was acquired by a gangster as a result of commission of an offence triable under the Act and has to enter into the question and record his own finding on the basis of the inquiry held by him under Section 16 of the Act. If the Court comes to the conclusion that the property was not acquired by the gangster as a result of commission of an offence triable under the Act, the Court shall order for release of the property in favour of the person from whose possession it was attached.

21. The object behind providing the power of judicial scrutiny under Section 16 of the Code is to check arbitrary exercise of power by the District Magistrate in depriving a person of his property and to restore the rule of law, therefore a heavy duty lies upon the Court to hold a formal enquiry to find out the truth with regard to the question, whether the property was acquired by or as a result of the commission of an offence triable under the Act. The order to be passed under Section 17 of the Act must disclose reasons and the evidence in support of finding of the Court. The Court is not empowered to act as a post office or mouthpiece of the State or the District Magistrate. If a person has no criminal history during the period the property was acquired by him, how the property can be held

to be a property acquired by or as a result of commission of an offence triable under the Act is a pivotal question which has to be answered by the Court. Besides, the aforesaid question, the other important question to be considered by the Court is whether the property which was acquired prior to the registration of the case against the accused under the Act or prior to the registration of the first case of the Gangster chart can be attached by District Magistrate under Section 14 of the Act.

22. The provisions of Section 14 of the Act, referred to above, empowers the District Magistrate to attach the property acquired by the Gangster as a result of commission of an offence triable under this Act. The District Magistrate may appoint an Administrator of any property attached, to administer such property in the best interest thereof but there must be reason to believe that any property whether moveable or immovable in possession of any person, has been acquired by a Gangster as a result of commission of an offence, triable under this Act but the District Magistrate in its order has not recorded his satisfaction having reason to believe with regard to the property attached that it was acquired by appellant as a result of commission of an offence triable under Gangster Act, even though while deciding the reference under Section 16 of the Act, the trial court does not appreciate the evidence and in a mechanical manner passed the impugned order relying upon the observations made by the District Magistrate which is illegal and an unjustified approach."

11. Similar law was laid down in case of **Vaishali Kapoor** (*supra*).

12. Section - 14 of the Gangster Act clearly provides that the order of the District Magistrate attaching one's property, must be based on reason and not arbitrary. The expression "reason to believe" appearing therein has some intent and purpose. It puts fetter in the arbitrary exercise of power of attachment to deny a person of his right to any property. Law requires that there must be reason to believe that the property sought to be attached, has been acquired by a "gangster" as a result of commission of any offence under the Act. The expression "reason to believe" contemplates an objective determination based on intelligent care and deliberation involving judicial review, as distinguished from purely subjective

consideration. There must be rational and intelligible nexus between 'reason' and 'belief'. The word 'believe' is a much stronger word than 'suspect' and it involves the necessity of showing that the circumstances were such that a prudent man must have felt convinced in his mind that what has been alleged, is true. The expression "reason to believe" is also defined in Section 26 of the Indian Penal Code. According to the said definition, a person is said to have 'reason to believe' a thing, if he has sufficient cause to believe that thing but not otherwise. "Reason to believe" is not the same thing as the 'suspicion' or 'doubt' and mere seeing also cannot be equated to believing. "Reason to believe" is a higher level of state of mind. The Court, of course, cannot investigate into the adequacy or sufficiency of the reasons examined by the authority in coming to the believe, but the Court can certainly examine whether the reasons are relevant and have a bearing in the matter in regard to which it is required to entertain the belief. In this connection a reference may be made to case of Smt. Rashida Bano vs. State of U.P. and others, 2014 6 ADJ 575, Badan Singh @ Baddo vs. State of U.P. and others, (2001)10 AHC CK 0033, Smt. Maina Devi vs. State of U.P., 2013 9 ADJ 542, Waseem Khan vs. State of U.P., 2023 LawSuit (All)751 and Criminal Appeal No. 2130 of 2021 (Abrar vs. State of U.P. and another), decided on 23.10.2021.

13. It may also be added here that initial burden is always upon the State to satisfy the District Magistrate with necessary materials that the appellant being a gangster acquired the properties as a result of commission of any offence mentioned in Section 2 of the Act. It is also to be kept in mind that the appellant / aggrieved is not liable to establish the source of income to acquire the properties in question. It is not

requirement of law that the aggrieved person seeking release of properties from attachment must prove the source of income for acquisition thereof. There must be a nexus between the commission of any offence and the acquisition of the property.

14. In the instant case, perusal of record shows that it could not be disputed that the land, on which the building / shops were constructed, is parental property of appellant. It appears that on the basis of police report to the effect that Gangster Mukhtar Ansari has made a gang, which includes his cousin Mansoor Ansari (appellant), and said Mukhtar Ansari has constructed the property in question by way of indulging in anti-social activities and criminal offences, the District Magistrate, Ghazipur has attached the disputed property under Section - 14(1) Gangster Act vide order dated 06.03.2023. The appellant has preferred objections against said order, which were rejected by the District Magistrate vide order dated 26.12.2023 and matter was referred to the competent Court / Special Judge (Gangster Act), Ghazipur. Appellant has also preferred an application against the order of Magistrate under Section - 16(1) Gangster Act before the learned learned Additional Sessions Judge / Special Judge (Gangster Act). The learned Special Judge has rejected the application of appellant and the orders of District Magistrate were upheld.

15. As per prosecution version, valuation of the said building / shops was to the tune of Rs. 26,18,025/-. It is not disputed that the land on which said building was constructed is parental property of the appellant. The appellant has shown through evidence that he has sold his two plots, which were his ancestral property, against consideration of about Rs. 20 lakhs and thereafter disputed construction was made. Here, it may be

stated that when construction was made about two years prior to the valuation and appellant has shown the source substantial part of amount, which was incurred in the construction of the building, some variation between alleged valuation of the property and the source of income of appellant would not give rise to an inference that said building was constructed from the financial resources acquired through commission of offences. Further, it was shown that no case under Gangster Act has even been registered against appellant. The case under Section - 2/3 Gangster Act was registered against said Mukhtar Ansari way-back in the year 2007. In that case, appellant was not shown accused. There is absolutely no material to show that appellant has been associated with the gang of Mukhtar Ansari or with any other gang. Merely because appellant is cousin of said Mukhtar Ansari, it cannot be a ground to attach his property. As stated earlier, burden is on State that the disputed property was acquired as a result of commission of offences mentioned in Section - 2 of Gangster Act. In the instant case, the State has utterly failed to discharge that burden. Appellant was not liable to establish the source of income to construct the disputed building. Considering entire facts, it appears that there is absolutely nothing to show any nexus between commission of any offence and the construction of the building / shops in question. It appears that the building / shops in question was attached by the District Magistrate merely because appellant is cousin of said Mukhtar Ansari. Except mere bald allegation made by the police in its report, there was no material to show that disputed property was constructed or acquired by the appellant from the financial resources acquired by commission of offences. The impugned order is based on surmises and conjectures. The impugned order of attachment passed by the learned

District Magistrate is not based on proper satisfaction and the same is wholly arbitrary. Similarly, learned Special Judge (Gangster Act) has miserably failed to consider the evidence produced by the appellant. The version of appellant has been rejected without assigning any proper reasoning. Considering entire facts, it is clear that impugned order is against facts and law and thus, liable to be set aside.

16. In view of aforesaid, the impugned judgment and order dated 02.09.2025, passed by the learned Additional Sessions Judge, F.T.C.-1, Ghazipur / Special Judge, Gangster Act is set aside. The miscellaneous case filed by appellant before the learned trial Court stands allowed. The orders of attachment passed by the District Magistrate are hereby set aside. The respondent is directed to release the disputed property forthwith.

17. Appeal is **allowed**.

(Raj Beer Singh,J.)

March 12, 2026

S Rawat