Court No. - 47

Case :- CRIMINAL MISC. WRIT PETITION No. - 13277 of 2025

Petitioner :- Vijay Singh
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Ajay Mishra,Shri Krishna Mishra
Counsel for Respondent :- G.A.

Hon'ble Siddharth,J.
Hon'ble Avnish Saxena,J.

1. Heard learned counsel for the petitioner and learned AGA for State.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 02.06.2025, registered as Case Crime No- 0098/2025 under sections- 3(1) of U.P. Gangsters and Anti-Social Activities Act, 1986 and Police Station- Haliya, District- Mirzapur, and for a direction to the respondents not to arrest the petitioner in pursuance of impugned First Information Report.

3. Learned counsel for the petitioner submits that it is a case of false implication of the petitioner. He is on bail in all the base cases.

4. Learned AGA has opposed the submissions and submitted that the petitioner has been directly implicated in this case, therefore, he does not deserves any indulgence from this Court.

5. After hearing the rival submissions, it appears that section 111 of B.N.S., relating to organized crime has been incorporated in Bhartiya Nagrik Sanhita, 2023, which is quoted hereinbelow;-

"*(1) Any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offence, cyber-crimes, trafficking of persons, drugs, weapons or illicit goods or services, human trafficking for prostitution or ransom, by any person or a group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit including a financial benefit, shall constitute organised crime.*

Explanation.--For the purposes of this sub-section--

(i)"organised crime syndicate" means a group of two or more persons who, acting either singly or jointly, as a syndicate or gang indulge in any continuing unlawful activity;

(ii) "continuing unlawful activity" means an activity prohibited by law which is a cognizable offence punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence, and includes economic offence;

(iii) "economic offence" includes criminal breach of trust, forgery, counterfeiting of currency-notes, bank-notes and Government stamps, hawala transaction, mass-marketing fraud or running any scheme to defraud several persons or doing any act in any manner with a view to defraud any bank or financial institution or any other institution or organisation for obtaining monetary benefits in any form.

(2) Whoever commits organised crime shall--

(a) if such offence has resulted in the death of any person, be punished with death or imprisonment for life, and shall also be liable to fine which shall not be less than ten lakh rupees;

(b) in any other case, be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(3) Whoever abets, attempts, conspires or knowingly facilitates the commission of an organised crime, or otherwise engages in any act preparatory to an organised crime, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(4) Any person who is a member of an organised crime syndicate shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(5) Whoever, intentionally, harbours or conceals any person who has committed the offence of an organised crime shall be punished with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees:

Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

(6) Whoever possesses any property derived or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime, shall be punishable with imprisonment

for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than two lakh rupees.

(7) If any person on behalf of a member of an organised crime syndicate is, or at any time has been in possession of movable or immovable property which he cannot satisfactorily account for, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for ten years and shall also be liable to fine which shall not be less than one lakh rupees."

6. This Court finds that the provision of Section 111 B.N.S., is regarding punishment for committing the offence of organized crime like the provisions of the U.P. Gangsters Act, and therefore, with incorporation of Section 111 B.N.S., it appears that provisions of U.P. Gangsters Act have become redundant. We further find that the provisions of Gangsters Act have been invoked against the petitioner with regard to commission of the offences under the Penal Code which have now been substituted by B.N.S.

7. Matter requires consideration.

8. All the respondents may file counter affidavit within period of three weeks. Petitioner may file rejoinder affidavit within two weeks.

9. List thereafter.

10. Till the next date of listing the petitioner shall not be arrested pursuant to the First Information Report dated 02.06.2025 subject to cooperation in ongoing investigation.

Order Date :- 7.7.2025
Abhishek

(**Avnish Saxena,J.**) (**Siddharth,J.**)