2026:AHC:236800-DB

AFR
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HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 29359 of 2025

Pranay Aneja

…..Petitioner(s)

Versus

State of U.P. and 4 others

…..Respondent(s)

with

CRIMINAL MISC. WRIT PETITION No. - 29357 of 2025

Ashwani Upadhyay

…..Petitioner(s)

Versus

State of U.P. and 4 others

…..Respondent(s)

with

CRIMINAL MISC. WRIT PETITION No. - 29358 of 2025

Upendra Govind Rao

…..Petitioner(s)

Versus

State of U.P. and 4 others

…..Respondent(s)

with

CRIMINAL MISC. WRIT PETITION No. - 29994 of 2025

Ravindra Kishor

…..Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Atul Khaneja, Subir Lal, Sr. Advocate, Ram Prakash
Counsel for Respondent(s)	:	G.A.

Court No. - 48

HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE TARUN SAXENA, J.

Per: Hon'ble Chandra Dhari Singh,J.

INTRODUCTION

1. The instant writ petitions under Article 226 of the Constitution arise from the same first information report and the same gang chart. They have accordingly been heard together and are being decided by this common judgment. The petitioners seek quashing of FIR No. 645 of 2025 dated 09.12.2025, registered at Police Station Kotwali Dehat, District Saharanpur, under Sections 2(b)(i), 3(1) and 3/2 of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 ("the Act"), together with the gang chart on which it rests and all consequential proceedings.

2. The FIR names twenty-seven persons. Pranay Aneja (Petitioner in WP No. 29359 of 2025) is described as the gang leader. Ashwani Upadhyay (Petitioner in WP No. 29357 of 2025), Upendra Govind Rao (Petitioner in WP No. 29358 of 2025) and Ravindra Kishor (Petitioner in WP No. 29994 of 2025) are shown as members.

3. Since all the afore-captioned writ petitions arise out of the same Case Crime Number and involve common questions of fact and law, the same have been heard together and are being decided by this common judgment. For the purpose of the present judgment, the brief facts, as noticed hereinbelow, are those of Writ Petition No. 29359 of 2025, preferred by Pranay Aneja.

FACTUAL MATRIX

The base case

4. Co-operative Company Limited ("the Company") held a PD-2 licence for the manufacture of country liquor at its unit at Yusufpur Tapri, District Saharanpur. On 03.03.2021, a joint team of the Excise Department and the Special Task Force intercepted container truck No. UP-11 BT-0935 carrying 1,500 cases of country liquor from that unit. The allegation was that the truck was on a second trip under a PD-25 pass and bar code issued on 01.03.2021 for a single consignment to a CL-2 wholesale licensee at Unnao. Duty was allegedly paid on one consignment while two were removed.

5. On the written report of the Assistant Excise Commissioner (Enforcement), Meerut, two FIRs were registered on 04.03.2021 at Police Station Kotwali Dehat, bearing Case Crime No. 97 of 2021 under Section 60 of the U.P. Excise Act, 1910, and Case Crime No.

98 of 2021 under Sections 420, 467, 468, 471 and 477-A IPC. Sixteen persons were named, including Pranay Aneja, Upendra Govind Rao and Ashwani Upadhyay. Ravindra Kishor was not named. The petitioners assert that the unit was sealed on 03.03.2021 and no manufacturing or commercial activity has taken place there since.

6. Vide order dated 04.03.2021 passed by the Additional Chief Secretary (Home), investigation was entrusted to the State Special Investigation Team (SIT). The cases were re-registered on 06.03.2021 as Case Crime Nos. 03 and 04 of 2021 at Police Station SIT, Lucknow, and were later merged by order dated 27.05.2021 of the In-charge District and Sessions Judge, Lucknow.

7. Between 30.04.2021 and 19.07.2024, ten charge-sheets were filed under Section 60(2) of the Excise Act, Sections 120-B, 420, 467, 468, 471 and 477-A IPC, Section 66 of the Information Technology Act and, as regards certain officials, Sections 7 and 13 of the Prevention of Corruption Act, 1988. Cognizance has been taken. The trial is pending as Case No. 881 of 2021 before the learned Special Judge, P.C. Act, CBI (Central), Lucknow. Upendra Govind Rao was charge-sheeted on 30.04.2021 and 31.05.2021, Ashwani Upadhyay on 23.10.2021, Pranay Aneja on 21.02.2022 and again on 19.07.2024, and Ravindra Kishor, then an Excise Inspector, was charge-sheeted on 26.04.2022. The trial stands

stayed *qua* two other accused, Rakesh Ahuja and Mayur Ahuja, vide orders of the Lucknow Bench dated 07.03.2025 and 02.06.2025. Each petitioner is on bail in the main case.

Parallel Proceedings

8. On the same FIRs, the Directorate of Enforcement filed a complaint under the Prevention of Money Laundering Act, 2002 on 31.03.2024 and issued a provisional attachment order on 03.05.2024. Pranay Aneja has furnished bonds under Section 88 CrPC in those proceedings. Against him, an FIR under Section 174-A IPC was registered on 22.11.2021 following proceedings under Section 82 CrPC, in which he was granted bail on 28.03.2022.

9. As per the material on record, the Company's licence has been the subject of a separate line of litigation. Apparently, a show cause notice dated 06.03.2021 was followed by cancellation of the PD-2 licence on 01.04.2021; this Court quashed the cancellation in Writ Tax No. 738 of 2021 on 05.01.2022 for want of compliance with natural justice. The licence was cancelled again on 04.05.2022 and the revision was dismissed on 07.11.2023. Vide judgment dated 10.10.2025 in Writ Tax No. 169 of 2024, this Court set aside those orders, directed the Excise Commissioner to furnish each and every material proposed to be used against the petitioner within fifteen days, and further directed that in case of failure to provide the proposed material to the petitioner as indicated above, the

present proceeding shall be deemed to be dropped. A fresh show cause notice dated 24.10.2025 was issued and the Company replied seeking the material. As per the written submissions dated 29.09.2026 filed on behalf of the petitioners in WP Nos. 29359, 29357 and 29358, it has been submitted that a modification application in Writ Tax No. 169 of 2024 was rejected with costs on 23.03.2026, that the State's SLP (C) No. 13074 of 2026 against that order was dismissed on 04.05.2026, and that the licences were renewed on 26.05.2026.

The SIT's recommendation in 2023

10. A committee/SIT chaired by the Principal Secretary (Home), in which the Additional Chief Secretary (Excise) and the Director General of Police participated, met on 16.06.2023 and accepted Recommendations 1, 2, 5 and 6. The decision was conveyed on 26.07.2023. Recommendation No. 5 proposed a case under the Act in District Saharanpur against nine persons: Pranay Aneja, Upendra Govind Rao, Ashwani Upadhyay, Mayur Ahuja, Rakesh Ahuja, Ajay Jaiswal, Manoj Jaiswal, Neeraj Jaiswal and Santlal Jaiswal. Recommendation No. 2, concerning four excise officials including Ravindra Kishor, proposed departmental action, consideration of termination of service and an inquiry into assets.

The gang chart and the FIR

11. Thereafter, in December 2025, the Inspector-in-charge, Police Station Kotwali Dehat, Saharanpur, prepared a gang chart naming twenty-seven persons, as against the nine originally recommended. Two persons, namely Rakesh Ahuja and Mayur Ahuja, were excluded in view of their pending proceedings under Section 482 CrPC, as recorded with reference to Rule 15(2) of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021. Twenty other persons were added, including company employees, transporters, liquor licensees and four excise officials, including Ravindra Kishor. The gang chart refers to only one criminal case, namely Case Crime No. 03 of 2021, against all twenty-seven persons. All are shown to be on bail and active across districts. Against each person, the chart records in identical terms that the possibility of committing further offences cannot be ruled out.

12. The gang chart thereafter passed through various levels of approval. The Inspector-in-charge recorded that he had examined the gang chart and the relevant forms and found the particulars correct, but his endorsement is undated. The Assistant Superintendent of Police/Circle Officer recorded his satisfaction that sufficient grounds existed for action under the Act. The Nodal Officer made a similar endorsement. The Superintendent of Police

and the Senior Superintendent of Police also endorsed their satisfaction. Finally, on 09.12.2025, the District Magistrate approved the gang chart, recording that a joint meeting had been held, the relevant records and criminal history had been examined, and approval was granted upon consensus.

13. On the same day, i.e., 09.12.2025, at 23:15 hours, FIR No. 645 of 2025 was registered at Police Station Kotwali Dehat, District Saharanpur, on the report of the Inspector-in-charge, under the provisions of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986. The FIR substantially reproduces the allegations relating to the incident of March 2021, describes the gang as active at the State level, and states that the free movement of the accused in society would not be in the public interest.

SUBMISSIONS

For the petitioners

14. Mr. Purnendu Chakravarty, learned Senior Counsel assisted by Mr. Rishabh Chauhan, learned counsel for the petitioners submitted, in substance, as summarised hereunder:

(i) that in ***Shiv Pratap Singh v. State of U.P.***[1]***,*** the Supreme Court has held that the Act creates no offence and that proceedings under

1 2026 SCC OnLine SC 1677

it cannot survive, and has applied that decision in ***Jyoti Suri v. State of U.P.***[2]***,*** by quashing an FIR under the Act;

(ii) that, independently, the gang chart was approved without the application of mind mandated by Rules 5(3)(a), 16 and 17 and by ***Vinod Bihari Lal v. State of U.P.***[3]***,*** and ***Gabbar Singh v. State of U.P.***[4]***,*** there are no minutes, the endorsements are identical, several are undated, and the District Magistrate recorded only consensus;

(iii) that the allegations disclose no violence, threat, intimidation or coercion, and so do not satisfy Section 2(b) read with Rule 3;

(iv) that the Act was invoked on a single incident of March 2021, more than four and a half years later, shortly after an adverse judgment against the Excise Department, and with twenty persons added to the SIT's list without reason; and

(v) that the individual position of each petitioner was never considered.

For the State

15. The learned Additional Government Advocate, relying on the counter affidavits, submitted:

2 SLP (Crl.) No. 9028 of 2026
3 2025 INSC 767
4 2026 INSC 271

(i) that a single offence suffices to invoke the Act, relying on the judgments passed in ***Shraddha Gupta v. State of U.P.***[5]***, Rinku alias Hukku v. State of U.P.***[6]***,*** and ***Kishan Pal v. State of U.P.***[7]***,***

(ii) that the constitutional validity of the Act was expressly left open in the judgment in ***Shiv Pratap Singh (supra)***;

(iii) that a joint meeting was in fact held on 09.12.2025 and that the register bears the signatures of the District Magistrate and the Senior Superintendent of Police;

(iv) that the accused operate as an organised gang at the State level, that the scale of the duty evasion is large, and that members of the public do not dare to depose against them;

(v) that the petitioners have criminal antecedents, including, against Pranay Aneja, cases under Section 174-A IPC and the PMLA proceedings, and against Ravindra Kishor, a case of 2006 from District Basti; and

(vi) that the investigation is in progress, with statements of some witnesses and documents yet to be collected, and this Court should not interdict it.

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5 (2022) 19 SCC 57
6 2001 (4) ACC 4614
7 2006 (54) ACC 1015

16. Heard learned counsel for the petitioners and the learned Additional Government Advocate for the State. We have perused the record, including the petitions before us, the counter and rejoinder affidavits, the supplementary affidavits and the written submissions filed on behalf of the petitioners in the instant set of Writ Petitions.

QUESTIONS FOR DETERMINATION

17. Upon a perusal of the record before this Court, the following questions arise for determination:

i. *First*, whether proceedings under the 1986 Act can be maintained in view of the judgment passed by the Supreme Court in ***Shiv Pratap Singh (Supra)***.

ii. *Second,* whether the allegations forming the subject matter of criminal proceedings initiated in the year 2021 for alleged evasion of excise duty, in which ten charge-sheets have already been filed and cognizance has been taken, furnish a legally sustainable basis for invoking the provisions of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 against the Petitioners, nearly five years thereafter.

iii. *Third*, whether the preparation and approval of the gang chart, culminating in the registration of the impugned FIR, were undertaken in accordance with the procedure prescribed by law and upon independent application of mind by the competent authorities.

THE PRINCIPLE OF QUASHING, OBJECT OF THE ACT AND SECTION 111 OF THE BHARATIYA NYAYA SANHITA

18. Before delving into the submissions advanced by both the parties, it is essential to first examine the foundational principles that govern the quashing of complaints and criminal proceedings at the threshold. The Supreme Court in the case of ***State of Haryana and Ors. vs Ch. Bhajan Lal and Ors.***[8], has laid down parameters for the quashing of an FIR and the proceedings subsequent thereto. The relevant paragraphs are reproduced herein below:

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
>
> *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same*

8 AIR 1992 SC 604

do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

19. It is also pertinent to revisit what the Act is meant to do, and how Parliament has since chosen to deal with organised crime in the Bharatiya Nyaya Sanhita, 2023.

20. The Preamble to the Act reads, *"An Act to make special provisions for the prevention of, and for coping with, gangster's and anti-social activities and for matters connected therewith or incidental thereto"*. As evident, it is directed to the prevention of gangsters and anti-social activities.

21. The Supreme Court in ***Shiv Pratap Singh (Supra)*** discussed the Scheme of the Act at great length, as extracted hereunder:

"*The Acts and the Rules*

18. The U.P. Act as the preamble suggests, intends prevention of and proliferation of gangsters and anti-social activities, as also matters connected therewith and incidental thereto, a laudable object indeed. Section 2 is the definition clause which, in addition to the other definitions, defines 'Gang' & 'Gangsters'. Sub-sections (b) & (c) of Section 2 are extracted hereinbelow: -

> *"2. In this Act, —*
>
> *(a) "Code" means the Code of Criminal Procedure, 1973;*
>
> *(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 —...*
>
> *(i) offences punishable under Chapter XVI, or Chapter XVII, or Chapter XXII of the Indian Penal Code, or*
>
> *(ii) distilling or manufacturing or storing or transporting or importing or exporting or selling or distributing any liquor, or intoxicating or dangerous drugs, or other intoxicants or narcotics or cultivating any plant, in contravention of any of the provisions of the U. P. Excise Act, 1910 or the Narcotic Drugs and Psychotropic Substances Act, 1985 or any other law for the time being in force, or*
>
> *(iii) occupying or taking possession of immovable property otherwise than in accordance with law, or setting-up false claims, for title or possession of immoveable property whether in himself or any other person, or*
>
> *(iv) preventing or attempting to prevent any public servant or any witness from discharging his lawful duties, or*
>
> *(v) offences punishable under the Suppression of Immoral Traffic in Women and Girls Act, 1956, or*
>
> *(vi) offences punishable under section 3 of the Public Gambling Act, 1867, or*

(vii) preventing any person from offering bids in auction lawfully conducted, or tender, lawfully invited, by or on behalf of any Government department, local body or public or private undertaking, for any lease or rights or supply of goods or work to be done, or

(viii) preventing or disturbing the smooth running by any person of his lawful business, profession, trade or employment or any other lawful activity connected therewith, or

(ix) offences punishable under section 171-E of the Indian Penal Code, or in preventing or obstructing any public election being lawfully held, by physically preventing the voter from exercising his electoral rights, or

(x) inciting others to resort to violence to disturb communal harmony, or

(xi) creating panic, alarm or terror in public, or

(xii) terrorising or assaulting employees or owners or occupiers of public or private undertaking or factories and causing mischief in respect of their properties, or

(xiii) inducing or attempting to induce any person to go to foreign countries on false representation that any employment, trade or profession shall be provided to him in such foreign country, or

(xiv) kidnapping or abducting any person with intent to extort ransom, or

(xv) diverting or otherwise preventing any aircraft or public transport vehicle from following its scheduled course ;

(xvi) offences punishable under the Regulation of Money Lending Act, 1976 ;

(xvii) illegally transporting and/or smuggling of cattle and indulging in acts in contravention of the provisions in the Prevention of Cow Slaughter Act, 1955 and the Prevention of Cruelty to Animals Act, 1960 ;

(xviii) human trafficking for purposes of commercial exploitation, bonded labour, child labour, sexual

exploitation, organ removing and trafficking, beggary and the like activities;

(xix) offences punishable under the Unlawful Activities (Prevention) Act, 1966;

(xx) printing, transporting and circulating of fake Indian currency notes;

(xxi) involving in production, sale and distribution of spurious drugs;

(xxii) involving in manufacture, sale and transportation of arms and ammunition in contravention of sections 5, 7 and 12 of the Arms Act, 1959;

(xxiii) felling or killing for economic gains, smuggling of products in contravention of the Indian Forest Act, 1927 and the Wildlife Protection Act, 1972;

(xxiv) offences punishable under the Entertainment and Betting Tax Act, 1979;

(xxv) indulging in crimes that impact security of State, public order and even tempo of life.

(c) "gangster" means a member or leader or organizer 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 harbors any person who has indulged in such activities;

xxx xxx xxx."

19. Section 3 refers to penalty which is also extracted hereinbelow: -

"3. (1) A gangster shall be punished with imprisonment of either description for a term which shall not be less than two years and which may extend to ten years and also with fine which shall not be less than five thousand rupees : Provided that a gangster who commits an offence against the person of a public servant or the person of a member of the family of a public servant shall be punished with imprisonment of either description for a term which shall not be less than three years and also with fine which shall not be less than five thousand rupees.

(2) Whoever being a public servant renders any illegal help or support in any manner to a gangster, whether before or after the commission of any offence by the gangster (whether by himself or through others) or abstains from taking lawful measures or intentionally avoids to carry out the directions of any court or of his superior officers, in this respect, shall be punished with imprisonment of either description for a term which may extend to ten years but shall not be less than three years and also with fine."

20. Section 4 speaks of the special rules of evidence by which additional aspects, regarding prior specified criminal antecedents, could be reckoned by the Special Court constituted to try the cases under the Act, notwithstanding the provisions of the CrPC and the Indian Evidence Act, 1872. Section 5 enables constitution of Special Courts and appointment of a Presiding Judge in consultation with the Chief Justice of the High Court. Section 6 empowers the Special Courts to sit at any place other than the ordinary place of sitting, even on a certification made by the Public Prosecutor, but after hearing the accused. Section 7 dealing with the jurisdiction of the Special Courts, is a non obstante clause restricting trial of 'every offence punishable under any provision of this Act or any rule made thereunder' to be exclusively tried by the Special Court.

21. We specifically emphasize and extract the above words from the provision under Section 7, since 'any offence punishable under this Act' has also been referred to in Sections 8, 10, 11, 12 and 13 of the Act. Section 8 empowers the Special Courts to try any other offence with which the accused, under any other law is charged, to be tried along with the offence punishable under the U.P. Act. Section 9 confers power on the Government to appoint Public Prosecutors; Additional PP or Special PP too, and prescribes the eligibility to be so appointed. Section 10 permits cognizance to be taken by a Special Court, of any offence triable by it, without a committal proceeding, even on a complaint of facts received by it or a police report, and enables a summary trial in cases where the punishment does not exceed three years imprisonment or with fine or both. It also bestows the Special Courts with the powers; of a Sessions Court; to convert a summary trial to a regular one and tender a pardon in accordance with the CrPC. Section 11 is with respect to incamera proceedings and keeping secret the identity of the witnesses, which we will deal with a bit later. As of now, we highlight the employment of the words: 'an offence under this Act' only to emphasize that there is no action or omission penalized as an offence under the subject Act.

22. The other provisions except Section 19 and Section 23 are not relevant for our purposes. Section 19 also is a non obstante clause deeming every offence punishable under the Act or the Rules made thereunder to be a cognizable offence within the

meaning of Section 2(c) of the CrPC and enhancing the period for default bail as provided under the CrPC. Sub-section (4) also stipulates that no person arraigned under the Act shall be released on bail or on bond, unless the Public Prosecutor is given opportunity to oppose and on such opposition, the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such an offence and is not likely to commit any offence while on bail. Section 23 enables the State Government to frame rules to carry out the purposes of this Act which provides that any contravention of any provisions of the Rules shall also be made punishable with imprisonment for a term of 6 months with or without fine.

23. Purportedly, in exercise of Section 23, the Rules of 2021 have been brought out wherein the condition of criminal liability with respect to gangs have been fixed under Rule 3. Rule 3 speaks of the offences mentioned under clauses (i) to (xxv) of Section 2(b) of the Act to be punishable under the Act, only if they disturb public order or causes violence or threat or display of violence, intimidation, coercion or otherwise, either singly or collectively, for the purpose of obtaining any unfair advantage; the advantage being worldly, economic, material, pecuniary or otherwise. The term 'worldly' being defined under the Rules as audacious acts which are illegal and aimed at seeking temporal gratification. Rule 4 speaks of a person being liable even if he is not at the scene of the incident or directly participating in the incident, if the offence is committed together with his passive involvement.

24. Chapter 3 prescribes the procedure for preparing the gang chart which has to be done at the grass root level by the Incharge of a Police Station/Station House Officer/Inspector, forwarded with the recommendation of the Additional Superintendent of Police (ASP), but approved only after due decision is taken in the joint meeting of the Commissioner of Police/District Magistrate/Senior Superintendent of Police/Superintendent of Police. While preparing the gang chart, it is provided by Rule 6 that the specific provision, the violation of which is alleged under sub-section (b) of Section 2 of the Act has to be mentioned. The other provisions in Chapter 2 provides for, restriction in; including the charges mentioned in an earlier gang chart (R.7), stating unconfirmed or false information (R.8) and requires support by records of; additional aspects as coming out from Section 4 of the Act (R.9) & also of base cases (R.10), the present status of the witnesses and the accused (R.11) and so on and so forth. A procedure is clearly prescribed as to how the gang chart is to be forwarded under Rule 16.

25. Chapter IV deals with the sanction of investigation and prosecution. Rule 22 provides that a single prosecution in certain class of cases, which are enumerated thereunder; all under the Penal Code, out of the sub-clauses mentioned under the various clauses of Section 2(b), if committed as a single offence, on

which investigation is pending, to reckon that for inclusion in the Gang Chart, the it ought to be approved by the Investigating Officer (I.O) of that single crime too. The provision seems to indicate that even if there is pending only one crime, which is also in the stage of investigation then the rigor of the Act can be applied to the accused, if the I.O in that case approves the Gang Chart."

22. The Indian Penal Code had no offence of organised crime. The Bharatiya Nyaya Sanhita, 2023, in force from 01.07.2024, created one for the first time in the general penal law. Section 111 of the Sanhita is extracted hereunder:

"111. Organised crime.—(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."

23. Upon a perusal of the said provisions, it is evident that Section 111(1) defines organised crime as any continuing unlawful activity, including economic offences, carried on by a person or group acting as or on behalf of an organised crime syndicate, by violence, threat, intimidation, coercion or other unlawful means, to

obtain material benefit. "Continuing unlawful activity" requires more than one charge-sheet within the preceding ten years on which a competent court has taken cognizance. Sub-sections (2) to (7) prescribe punishments, including for membership of a syndicate.

24. Three features of Section 111 stand out. It creates an offence and prescribes punishment for it. Its threshold is objective and verifiable from judicial records, not left to executive assessment. And it retains both the means (force or unlawful means) and the object (material benefit), so that economic offences fall within it only when they carry the character of organised criminality.

25. Section 111 does not apply here, since the acts alleged pre-date it, and Article 20(1) bars its retrospective application. We refer to it only because it shows what Parliament has regarded as the essential safeguards of a law on organised crime, *viz.* - a statutory offence, a threshold demonstrable from court records, and the elements of force or unlawful means and of benefit.

QUESTION (i): THE EFFECT OF SHIV PRATAP SINGH JUDGMENT

26. In ***Shiv Pratap Singh (Supra),*** the Supreme Court observed that the Act creates no offence. It held that Section 2(b) is merely a definition clause, and that prescribing punishment for a status

without an offence created by statute makes the penal act, stillborn. On that footing, it quashed the two proceedings before it.

27. The Supreme Court, however, expressly refrained from deciding the constitutionality of the Act, while observing as under:

> *"29. We reiterate that we are not dealing with a challenge on the constitutionality of the enactment, hence we would not examine the U.P. Act in that perspective but however on the facts coming out from the two cases before us, we have to look at two issues...."*

28. The Supreme Court in the said judgment further clarified that all the contentions against the Act would be left open for consideration, as extracted hereunder:

> *"59. ... We may also not be mistaken as having approved the Full Bench of the Allahabad High Court and or upheld the negation of all the contentions raised against the Act, which would be left open for consideration, especially since we have only held the Act to be stillborn on the provisions as existing now."*

29. Those very contentions were considered and rejected by a Full Bench of this Court in ***Ashok Kumar Dixit v. State of U.P.***[9]***.*** The Full Bench upheld the Act. It negatived the arguments that no offence had been created and that the Act punishes a mere status. It held that it is not the status but the act which is made punishable, and that the activities of gangsters are offences under the Act because they pose a grave threat to the even tempo of society. The Supreme Court in ***Shiv Pratap Singh (Supra)*** noticed this decision. It did not overrule it, and expressly stated that it was not to be

9 1987 SCC OnLine All : AIR 1987 All 235

understood as having approved or disapproved it. The Full Bench therefore continues to bind this Bench. Since the constitutionality of the Act has not been decided, the Act remains on the statute book and carries the presumption of constitutionality. This Court cannot treat it as *non est*.

30. Question (i) is accordingly answered in the aforesaid terms.

QUESTION (ii): WHETHER THE ALLEGATIONS FURNISH A LEGALLY SUSTAINABLE BASIS FOR INVOKING THE ACT

31. A proceeding under the Act needs a base case, and the allegations in it must be examined to see whether they disclose the activity of a gang. The Supreme Court in ***Vinod Bihari Lal v. State of U.P.***[10]**,** held as under:

> *"26. Although the present matter presently before us pertains solely to the subject FIR in question, yet it must be noted that an FIR registered under the Act of 1986 cannot be sustained in the absence of a base case/FIR. Accordingly, it becomes imperative to undertake a prima facie examination of the allegations underlying the registration of the subject FIR and the consequent preparation of gang-chart."*

32. The base case alleges the following. Officers and employees of a licensed distillery, together with a transporter, wholesale licensees and some excise officials, removed liquor twice on one pass by using duplicate bar codes. They manipulated records, and so evaded duty. The informant was an Assistant Excise Commissioner. The evidence described is documentary and

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electronic: passes, bar codes, registers, software entries, invoices and statements recorded during a raid. An official team intercepted the truck near the factory and seized the records there. If proved, the allegations make out cheating, forgery and evasion of duty, all of which are already being prosecuted.

33. What the allegations do not disclose is any of the means that Section 2(b) and Rule 3 require. No act of violence, threat, show of violence, intimidation or coercion is attributed to any petitioner. No member of the public, witness or official is said to have been threatened. Public officers reported the case, a specialised agency investigated it, and ten charge-sheets have been filed. The gang chart itself records that no accused has faced proceedings under the U.P. Goondas Act, Sections 107 to 110 CrPC or the NDPS Act. It is pertinent to refer to the discussion in ***Vinod Bihari Lal (supra)*** in this context:

> *"19. Section 2(b) of the Act of 1986 should be read alongside Rule 3 of the Rules of 2021, which states 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."*
>
> *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."*

34. The counter affidavits assert that nobody from the public dares to depose or lodge a report. The assertion is bare. It carries no particulars, and it sits uneasily with a prosecution that was in fact reported, investigated and charge-sheeted. The only reference on record to anything resembling a threat is a submission made by the State at a bail hearing in March 2022. It concerned telephone calls made by two company officials to a security in-charge. The bail order notes that no FIR was shown to have been lodged about those calls, and neither of those officials is a petitioner before us.

35. The words "or otherwise" do not dispense with this requirement. They take colour from the words around them. That is why the Full Bench in ***Ashok Kumar Dixit (supra),*** on which the State itself relies, read Section 2(b) as a whole as bringing in violence, intimidation or coercion. In ***Vinod Bihari Lal (supra),*** allegations of forgery and embezzlement fell within offences under the IPC. They were nevertheless held not to have been committed

with the object contemplated by Section 2(b), even in the remotest possibility. In ***Vinod Bihari Lal (supra),*** it was discussed and held as under:

> ***"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 supplied)*
>
> ***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 supplied)*
>
> ***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 (xvv) 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."*

36. The FIR invokes clause (i) in its table and clauses (i) and (ii) in its narrative. Clause (ii) speaks of manufacturing or transporting liquor in breach of the Excise Act. The listing of an activity is, however, only one element of the definition. The activity must be pursued by the means, and for the object, that the opening words of Section 2(b) and Rule 3 require. Otherwise, those engaged in it are co-accused in an ordinary prosecution, and not a gang. Employees who act within a hierarchy, on the instructions of their superiors and in the course of a company's business, do not become a gang merely because that business is alleged to have been run unlawfully. The State Government's own Guidelines dated

02.12.2024, which the Supreme Court subsumed as part of its judgment in ***Vinod Bihari Lal (supra)***, say the same. Guideline (1), extracted in paragraph 64 of that judgment, reads as under:

> *"(1) Provisions of the Act be applied only when gangster commits the crime by violence, threat or show of violence or intimidation or coercion etc. alone or group with the object of disturbing public order or of gaining any undue temporal, pecuniary, material or other advantage for himself or any other person."*

37. The scheme of Section 111 of the Sanhita, noticed in paragraphs 21 to 24, is consistent with this reading. Under that scheme, an economic offence becomes organised crime only when it is committed as a continuing unlawful activity of a syndicate, by the means and for the object stated in the provision. It is not enough that the offence is an economic one.

38. The State relies on the proposition that a single offence may suffice. That reliance does not help it. The decision on which the State relies itself makes the means and the object a condition of prosecution. In ***Shraddha Gupta (supra),*** the Supreme Court held as under:

> *"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. Therefore, so far as the Gangsters Act, 1986 is concerned, there can be prosecution*

> *against a person even in case of a single offence/FIR/charge-sheet for any of the anti-social activities mentioned in Section 2(b) of the Act provided such an anti-social activity is 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."*

39. The facts of that case also stand in contrast to those before us. The base offence there was a murder in which, according to the prosecution, the accused rammed their car into the deceased's scooty and shouted that the witness should also be killed. The other co-accused were already being prosecuted under the Act. ***Vinod Bihari Lal (supra)***, para 22, read ***Shraddha Gupta (supra)*** in the same way: an accused can be termed a gangster only when, as a member of a gang, he has indulged in the enumerated 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".*

40. In the instant case, the only incident is that of 03.03.2021, and the unit has been sealed since that day. The gang chart was prepared on 01.12.2025, four years and nine months later. Nothing falling within Section 2(b) is alleged against any petitioner in the intervening period. The FIR gives the date and place of occurrence as "various". In the meantime, the base case has been charge-sheeted ten times, cognizance has been taken, and each petitioner has been admitted to bail. In ***Vinod Bihari Lal (supra)***, the Supreme

Court thought it noteworthy that the FIR under the Act had been registered about a year after the first base FIR. Here, the interval is nearly five times as long. The approving authority is bound to apply its mind to the pertinent and proximate matters and eschew those which are irrelevant & remote. The Preamble shows that the Act is directed to the prevention of, and coping with, gangster and anti-social activities. The record does not show what activity remained to be prevented in December 2025.

41. Where a proceeding is said to have been instituted for a purpose other than its proper one, the Court must look at the FIR with care and somewhat more closely. In ***Mohammad Wajid v. State of U.P.***[11]***,*** as extracted in ***Vinod Bihari Lal (supra),*** para 39, the Supreme Court observed as under:

> *"34. ... In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation."*
>
> We need not, and do not, record a finding of mala fides.

The circumstances are relevant because they bear on whether the decision to invoke the Act rested on a genuine basis.

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42. The sequence of events, as evident from the record, is as follows:

a. The proposal to invoke the Act was approved in June 2023 and conveyed in July 2023. Nothing was done on it for over two years.

b. On 10.10.2025, this Court set aside the cancellation of the Company's licence for the second time. It directed that the excise proceedings would be deemed to be dropped unless the material was supplied within fifteen days.

c. A fresh show cause notice was issued on 24.10.2025, and the Company replied seeking the material.

d. The gang chart was prepared on 01.12.2025, and the FIR followed on 09.12.2025.

This sequence does not by itself prove an improper purpose. It does, however, require that the decision to invoke the Act at that particular moment be shown, from the contemporaneous record, to rest on reasons of its own. No such reasons are on record.

43. The selection of persons calls for the same scrutiny. In ***Vinod Bihari Lal (supra),*** the Supreme Court observed as under:

> *"33. ... if the subject FIR and the gang-chart were indeed prepared on the strength of the base FIRs, there is no good or plausible explanation coming from the investigating agency as to why no investigation was initiated against other similarly placed accused persons named therein. This selective approach raises serious doubts about the bona fides of the investigating agency and integrity of the investigation undertaken under the Act of 1986."*

The gang chart gives a reason for leaving out the Ahujas. It gives none for bringing in twenty persons beyond the nine named by the SIT. Selectivity can operate in both directions, in whom one leaves out and in whom one brings in.

44. The antecedents relied upon by the State do not change the position. Against Pranay Aneja, the State cites three matters: a case under Section 174-A IPC, arising from his non-appearance; a second such case, which he denies; and the PMLA proceedings, which arise from the same base case. Against Ravindra Kishor, the State cites a case of 2006 from District Basti under Sections 323, 324, 325, 504 and 506 IPC. None of these is a base case in the gang chart.

45. Even otherwise, it is settled law that, when it comes to quashing of the FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings. An accused has a legitimate right to say before the Court that howsoever bad his antecedents may be, still if the FIR fails to disclose commission of any offence or his case falls within one of the parameters as laid

down by this Court in the case of ***Bhajan Lal (supra),*** then the Court should not decline to quash the criminal case only on the ground that the accused is a history sheeter.

46. Question (ii) is accordingly answered in favour of the petitioners. At face value, the allegations disclose offences which are already being prosecuted in the base case. They do not disclose the activity of a gang within Section 2(b) read with Rule 3. Nor does the record furnish any basis for invoking the Act nearly five years after the solitary incident.

QUESTION (iii): THE PREPARATION AND APPROVAL OF THE GANG CHART

47. Rule 5(3)(a) provides that the gang-chart will not be approved summarily but after due discussion in a joint meeting of the Commissioner of Police/District Magistrate/Senior Superintendent of Police/Superintendent of Police.

48. Rule 16 requires every forwarding and approving authority to record its satisfaction after perusing the gang chart and the attached forms. Rule 16(3) requires that all the facts will also be thoroughly perused by the Commissioner of Police/District Magistrate and when he is satisfied that the basis of action exists in the case, then he will approve the gang-chart.

49. Rule 17 reads as under:

> *"17. Use of independent mind.—(1) The Competent Authority shall be bound to exercise its own independent mind while forwarding the gang-chart. (2) A pre-printed rubber seal gang-chart should not be signed by the Competent Authority; otherwise the same shall tantamount to the fact that the Competent Authority has not exercised its free mind."*

50. The Rules thus separate two things that are easily confused: a meeting of officers, and the application of mind by those officers. Officers may meet and agree without examining anything. The Rules do not require merely that the officers meet, or that they agree. They require that each of them, and the District Magistrate in particular, examine the material and arrive at a satisfaction grounded in it. The joint meeting is the place where that examination is meant to happen. It is not a substitute for independent application of mind.

51. The Supreme Court explained the content of this requirement in ***Vinod Bihari Lal (supra):***

> *"51. The satisfaction of the approving authority is sine qua non for taking action under the Act of 1986. It is indispensable for the approving authority to record his satisfaction in his own words, to indicate application of mind before approving the gang-chart. The recording of satisfaction need not be exhaustive, because at the stage of approval the investigation under the Act of 1986 is yet to be conducted, but it must be independent, indicating the reasons justifying the exercise of jurisdiction under the Act of 1986.*
>
> *52. It is equally apposite to mention that the satisfaction must not be a cyclostyle reproduction of the application of mind communicated by the recommending authority. This is only possible when the approving authority meticulously refers to the materials on record on the basis of which he will come to the conclusion about existence of grounds justifying registration of an FIR under the Act of 1986. Needless to say, reiteration of the contents of the FIR or chargesheet does not constitute application of mind.*

> *53. Such satisfaction must stand on certain grounds; it cannot arise in absence of any basis, leaving the liberty of the accused in a precarious position. The basis of satisfaction must bear a reasonable nexus with the facts present before the concerned authority. Thus, the decision of the recommending, forwarding, and approving authorities respectively must be at the behest of the application of mind to the relevant and material facts available on record.*
>
> *54. An independent application of mind cannot be presumed unless it is demonstrable from the record that the approving authority has, in letter and spirit, independently considered all the materials that culminated in the preparation and placement of the gang chart before him. While the correctness of such application of mind may lie beyond the scope of judicial scrutiny, the absence thereof certainly does not. A mechanical or routine exercise of power by the recommending, forwarding, and approving authorities respectively is impermissible, as it directly impinges upon the liberty of citizens."*

52. The Supreme Court further held therein that compliance with the joint meeting requirement must be evident from the record:

> *"45. In the present case, there is nothing on record, even upon a microscopic examination, to indicate that a joint meeting was held prior to approval of the gang-chart. It is apparent that the gang-chart was approved summarily, without any discussion. It was forwarded and approved swiftly, without regard for compliance with the relevant rules. The compliance with Rule 5(3)(a) ought to be evident through the record of minutes of the joint meeting maintained in a register by the District Magistrate."*

53. The Supreme Court further subsumed the State Government's Guidelines dated 02.12.2024 as part of its judgment. Guidelines (8), (9) and (10) as extracted therein, read as under:

> *"(8) On receiving the case file at the office of the Commissioner of Police/District Magistrate, again end to end perusal of all the facts be made and this be ensured according to rule 5(3)(a) of the Rules 2021 that only after being satisfied by holding a joint meeting with the Senior Superintendent of Police/Superintendent of Police, gang-chart be approved by the Police Commissioner/District Magistrate.*
> *(9) After preparing the gang chart and getting the same approved and after thorough investigations, legal scrutiny and in addition to full compliance of the above-mentioned Government Orders regarding other relevant proceedings, as per Rule 5(3)(a) of the Rules 2011, it shshould also be ensured to maintain a register for entry of the resolutions of the Joint Meetings of the District Magistrate/the Police Commissioner/Senior*

Superintendent of Police/Superintendent of Police. In addition to the above, the Police Commissioner/Senior Superintendent of Police/Superintendent of Police and the District Magistrate and Nodal Officer, while appending their signatures on the gang-chart shall also ensure to mention the date below their signatures. (10) It should be shown to the satisfaction of the competent authorities that they have applied their mind not only on the gang chart but also on the documents/papers attached with the gang-chart."

54. Tested against these standards, the record discloses the following:

(a) No minutes of the joint meeting are on record. The only document produced is a certified copy of signatures in a register dated 09.12.2025. It was forwarded by a letter dated 05.01.2026, written after these petitions were filed and interim protection was granted. The document records no discussion. It does not show what material was placed, which of the twenty-seven persons was considered, or why the Act was thought necessary in December 2025. Further, the covering letter describes a different case, against a different principal accused, at a different police station, and that discrepancy remains unexplained.

(b) The approval records a consensus, but not a consideration. The District Magistrate approved the chart "on the basis of consensus, being satisfied with the report presented". Consensus means that the officers agreed. It says nothing about any examination of the material. Satisfaction with the report presented is satisfaction with the police recommendation, not with the evidence. The endorsement does not identify the clause of Section

2(b), the means of violence, threat, intimidation or coercion, the object, or the role of any individual.

(c) The endorsements at the intermediate levels are identical. The Circle Officer, the Nodal Officer and the Superintendent of Police each wrote the same three sentences. Rule 17(2) forbids signing a printed satisfaction because a printed formula reflects no thought. A formula copied out by hand at each level stands no higher. It is a "cyclostyle reproduction" in the words of ***Vinod Bihari Lal (supra).*** The model words in Rule 16 do not save it. Those words are expressly illustrative of the content of the satisfaction. They do not dispense with the requirement, explained in paragraphs 52 and 53 of ***Vinod Bihari Lal (supra),*** that the satisfaction refer to, and be grounded in, the material. The Rules intend each tier to act as a filter. When every tier repeats the tier below it, there is in truth only one tier. The recommending, forwarding, and approving authority are not mere rubber-stamping entities.

(d) The speed and volume of the exercise are significant. The chart passed every level between 01.12.2025 and 09.12.2025. The FIR was registered at 23:15 hours on the day of approval, against twenty-seven persons spread over several districts and States. Speed alone is not a vice. Read with the formulaic character of every endorsement, however, it supports the inference that no real examination of twenty-seven individual cases took place. Several endorsements, including that of the Inspector-in-charge, are also undated, contrary to guideline (9) adopted in ***Vinod Bihari Lal (supra).*** The absence of

dates was itself a matter of concern to the Supreme Court in that case.

(e) The particulars in the chart were not checked: Pranay Aneja is described as "MD/owner", which he disputes. Every one of the twenty-seven persons carries the same entry, that the possibility of a further offence "cannot be ruled out", without a single supporting fact about any of them. None of this drew comment from any approving authority.

(f) The departure from the SIT's recommendation is unexplained. The only considered proposal on record is Recommendation No. 5, approved in 2023 by a committee chaired by the Principal Secretary (Home). The chart retains seven of its nine names and adds twenty. Those added include four public servants whom the SIT had recommended only for departmental action. Whatever view one takes of the reason recorded for omitting the Ahujas, a considered exercise would have explained why twenty more persons were now to be branded members of a gang. No reason is recorded.

55. The absence of application of mind is most evident when the position of each petitioner is examined. The record does not reflect any individual consideration of any of them:

(i) Pranay Aneja is shown as the gang leader and as "MD/owner". He states that he is a shareholder. While rejecting his first bail application, this Court noted his substantial shareholding along with that of his family. He has been on bail since 25.03.2022 and has furnished bonds in the PMLA proceedings. Apart

from the Section 174-A IPC matter arising from his non-appearance in 2021, nothing is alleged against him after 03.03.2021.

(ii) Upendra Govind Rao was the Unit Head. He was in custody from 04.03.2021 until 14.12.2021. He states that he resigned from the Company on 01.11.2023.

(iii) Ashwani Upadhyay is described as the Sales Head. While granting him bail, this Court noticed material showing that he was employed by Stellar Capital Services Limited and not by the Company. It also noticed that nothing had been pointed out against him except the statement of a co-accused.

(iv) Ravindra Kishor is a public servant, and was then an Excise Inspector at Unnao. He was not named in the base FIRs. He states that his name surfaced during investigation on the basis of a transcript of a fifty-six second call. After completing its investigation, the SIT recommended departmental action, consideration of termination of service and an inquiry into his assets. It did not recommend action under the Act. The chart gives no reason for departing from that assessment. Section 3(2) of the Act, which deals with a public servant rendering illegal help to a gangster, has not been invoked against him. He is simply treated as a gang member under Section 3(1).

56. Therefore, the satisfaction required by Rules 5(3)(a), 16 and 17 is a jurisdictional condition for registering an FIR under the Act. Its absence goes to the root of the proceeding and is not a curable

irregularity. Question (iii) is accordingly answered in favour of the petitioners.

OBSERVATIONS ON THE ROUTINE INVOCATION OF THE ACT

57. These petitions raise a concern that goes beyond the four petitioners, namely, when an enactment of this kind should be invoked at all. We record the following observations:

a. A law carrying graver consequences than the ordinary penal law is an exception to the ordinary process, and not an alternative to it. The decision to invoke it should rest on a recorded determination of why the ordinary process is inadequate in the particular case. The gravity of the base offence alone cannot supply that determination, because the general law already deals with grave offences.

b. Consider a case where the predicate offence is already being prosecuted, the charge-sheets have been filed, cognizance has been taken, the accused are on bail without breach, and nothing is alleged in the interval. There, invoking the Act adds no new fact. What it adds are the bail restrictions under the Act, the extended period of remand, and exposure to a minimum sentence before a Special Court. Consequences of that weight for liberty should follow only from reasons that are specific, contemporaneous and verifiable.

c. The gang chart is not a mere formality. Under the Rules, it is the only instrument by which a person comes to be treated as a gangster. Each tier of approval is meant to be an independent check. When every tier repeats the one below

it, the checks collapse into one, and the decision is in truth that of the officer who first prepared the chart.

d. A joint meeting is worth only what is done at it. The law requires due discussion and independent application of mind. It does not require consensus, and a consensus does not prove that the requirement was met.

e. Heightened care is called for when penal proceedings of an exceptional kind are begun shortly after the same State authorities have suffered an adverse outcome in civil, fiscal or regulatory proceedings on the same facts. The State may pursue every lawful remedy. The record should then, however, show on its face that the decision rests on independent grounds.

f. Economic offences, including organised ones, are now addressed by Section 111 of the Sanhita, which has a defined offence and an objective threshold. They are also addressed by specific statutes such as the excise laws and the Prevention of Money Laundering Act, 2002. That is itself a reason for restraint before the officers and employees of a business, prosecuted for the manner in which the business was run, are treated as members of a gang.

DIRECTIONS

58. The Act continues to be operative, as held under Question (i). Building upon the directions already issued in the plethora of judgments referred hereinabove, we direct that the following shall

be observed in any proceeding that may hereafter be contemplated under the Act and the Rules:

(i) Threshold determination: Before a gang chart is prepared, the officer preparing it shall record, for each person, the following particulars, together with the material for each: (a) the clause of Section 2(b) being invoked; (b) the means of violence, threat, show of violence, intimidation or coercion attributed to that person; and (c) the object alleged.

(ii) Individual assessment: Satisfaction at every stage shall be individual to each person. It shall state why that person is a member, leader or organiser of a gang, as distinct from a co-accused in the predicate offence. A collective satisfaction, or an identical entry against every person, shall be treated as no satisfaction.

(iii) Inadequacy of the ordinary process: Where the predicate case has been charge-sheeted or is pending trial, the authorities shall record specific reasons, with particulars, why the ordinary prosecution is inadequate. Those reasons may include any breach of bail, interference with witnesses, or continuation of the activity.

(iv) Proximity in time: The chart shall state the date of the last act attributed to each person. Where that act is not proximate to the chart, the reasons for invoking the Act at that time shall be recorded.

(v) Full disclosure: The chart shall disclose the following: (a) the current status of every base case, including any stay, bail, discharge or quashing; (b) any order passed in civil, fiscal

or regulatory proceedings on the same facts; and (c) any recommendation of an investigating agency on invoking the Act, with reasons for any departure from it.

(vi) Joint meeting: The joint meeting under Rule 5(3)(a) shall be one whose date, time, place and participants are recorded. Minutes shall be written at the meeting and entered in the register. They shall record, in respect of each person, the material examined, the points considered and the reasons for approval or rejection. A mere recital of consensus, or of satisfaction with the report placed, shall not suffice.

(vii) Independent and dated satisfaction: Every forwarding and approving authority shall record its satisfaction in its own words, with reference to the material, and shall note the date and time below its signature.

(viii) Sequence: No FIR shall be registered until the approval and the minutes are complete. The time of approval shall be recorded, so that the sequence of approval and registration can be verified.

(ix) Scheduled activities only: Only cases falling within the clauses of Section 2(b) shall be reckoned as base cases. Other cases may be shown separately, as criminal history, in the prescribed form.

(x) Public servants: Where a public servant is proposed to be included, the authorities shall record why action under the Act, rather than departmental and anti-corruption remedies, is the appropriate course. They shall also record whether Section 3(1) or Section 3(2) is attracted, and why.

(xi) Production before the Court: Whenever an FIR under the Act is challenged, the State shall produce the original gang chart, the original register of minutes and the material considered at the joint meeting.

(xii) Responsibility: Where non-compliance is found, a copy of the judgment shall be sent to the Chief Secretary and the Additional Chief Secretary (Home). It shall be sent for examination of the conduct of the authorities concerned, and for such training and corrective measures as may be needed.

59. Needless to state that these directions are issued to secure compliance with the provisions of the Act and the Rules framed thereunder.

CONCLUSION

60. To sum up, in view of the consideration in the foregoing paragraphs, this Court holds as under:

(a) Question (i) is answered in favour of the State, and Questions (ii) and (iii) are answered in favour of the petitioners. Each of the conclusions on Questions (ii) and (iii) is independently sufficient to require the impugned proceedings to be quashed.

(b) Criminal Misc. Writ Petition Nos. 29359, 29357, 29358 and 29994 of 2025 are ***allowed***.

(c) FIR No. 645 of 2025 dated 09.12.2025, Police Station Kotwali Dehat, District Saharanpur, the gang chart on which it is founded, and all proceedings consequential thereto, are

quashed qua the petitioners Pranay Aneja, Ashwani Upadhyay, Upendra Govind Rao and Ravindra Kishor.

(d) Nothing in this judgment shall affect Case No. 881 of 2021 pending before the learned Special Judge, P.C. Act, CBI (Central), Lucknow, the proceedings under the Prevention of Money Laundering Act, 2002, or any departmental proceedings against Ravindra Kishor. Those proceedings shall continue in accordance with law, uninfluenced by any observation made herein.

(e) The other persons named in the FIR are at liberty to seek such remedy as may be available to them in law.

(f) The directions in Para 54 (f) shall be observed by all concerned authorities.

(g) The Registrar (Compliance) shall forward a copy of this judgment to the Chief Secretary and the Additional Chief Secretary (Home), Government of Uttar Pradesh, within two weeks. The copy shall be circulated to all District Magistrates, Commissioners of Police and Senior Superintendents /Superintendents of Police in the State.

(h) Pending applications, if any, shall stand disposed of. There shall be no order as to costs.

(Tarun Saxena,J.) (Chandra Dhari Singh,J.)

November 19, 2026
Saurabh