

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 45867 of 2024

**Applicant :-** Ravi Nagar Alias Ravindra Singh Alias Ravi Kana

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Harikesh, Satya Prakash Rai, Sunil Kumar, Vimlendu Tripathi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Siddharth, J.**

1. Heard Sri V.P. Srivastava, learned Senior Counsel assisted by Sri Harikesh Gupta and Vimlendu Tripathi, learned counsel for the applicant; Sri Manish Goyal, learned Additional Advocate General assisted by Sri J.K. Upadhyay, learned AGA 1st for the State and perused the material placed on record.

2. The instant bail application has been filed on behalf of the applicant, **Ravi Nagar Alias Ravindra Singh Alias Ravi Kana**, with a prayer to release him on bail in **Case Crime No. 02/2024**, under Sections- 2(b)i, 2(b) iii, 2(b)iv, 2(b)viii, 2(b)xi, 2(b)xii IPC and section 3 of the U.P. Gangsters and Anti-social Activities (Prevention) Act, 1986, Police Station- Beeta-2 and District- Gautam Buddh Nagar, during pendency of trial.

3. The brief facts of the case are that gang Chart was approved on 01.01.2024, whereafter, the F.I.R. dated 02.01.2024 was lodged by Munendra Singh, In-charge Inspector, P.S. Beta-2, Gautam Buddh Nagar against sixteen (16) persons on allegations that the gang leader, Ravi Nagar alias Ravindra Singh alias Ravi Kana, (applicant) and fifteen members of his gang have formed an organised gang to commit crimes to achieve their physical and pecuniary advantages and are engaged in the business of iron rod and scrap. They used to unload the iron rods from trucks going to various construction sites and get the entry of full weight by forcing the site manager and then sell the unloaded quantity of iron rod to obtain pecuniary benefits for the gang. Likewise, they used to take contracts of scrap from various business entities on their own rates, whereby the business entities suffered financial losses. The gang leader takes scrap contracts at a very low rate in comparison to the market rate and restrains other persons from

participating in the tender process. His company, "Prime Pressing Tools Private Limited" has grown by 97% in the last three years.

4. The Gang chart dated 01.01.2024 discloses three criminal cases against the applicant, details whereof are as follows:

a) Case Crime No. 74 of 2023 u/s. 341, 386, 500 of I.P.C., Police Station Ecotech-3, District Gauam Budh Nagar (regarding the loss of the image and business of the informant)

b) Case Crime No. 506 of 2018 u/s. 386, 392, 420, 467, 468, 414, 34 of I.P.C., Police Station Bistrakh, District Gautam Budh Nagar (regarding the forceful unloading of iron-rod in his godown and preparing forged bills and TIN Number)

c) Case Crime No. 752 of 2018 u/s. 342, 323 of I.P.C., Police Station Bitra-2, Greater Noida, District Gautam Budh Nagar (regarding an assault on the informant and getting the property transferred forcefully)

5. Earlier, the charge sheet against a few of the accused persons was filed in April 2024, keeping the investigation pending against the applicant. However, the investigation into the case against the applicant has been ongoing for **approximately one year, three months, and five days, and the charge sheet has not been filed to date.**

6. Learned counsel for the applicant has made following submissions:-

(1) The approval of the Gang-Chart and the lodging of the F.I.R. of the crime in question is illegal and against the provisions of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986.

(i) According to rule 5 (3) (a) of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021, the gang chart shall not be approved without completion of the investigation of the base case; however, despite showing the crime no. 74 of 2023 as a base case, and despite the pendency of its investigation, the gang chart has been approved by the respondent authorities in a malafide manner.

(ii) According to rule 5 (2)(a), the gang chart will not be approved summarily, but after due discussion in a "Joint Meeting" of the Commissioner of Police/District Magistrate. The gang chart dated 01.01.2024 does not disclose the "discussion in a Joint Meeting" of

the concerned authorities. All the police authorities mentioned in the gang chart have signed the gang chart on different dates, and except the Commissioner of Police, other police authorities have just mentioned their respective recommendation, and there is no joint declaration disclosing "discussion in a joint meeting".

(iii) The gang chart dated 01.01.2024 is in typed proforma and discloses the fact that it was already printed with a prejudiced mind, and in fact, there is non-application of independent mind. The signing of printed proforma is against the procedure prescribed in the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021, as per judgment dated 24.11.2023 passed by the Hon'ble Division Bench of this Hon'ble Court in Criminal Misc. Writ Petition No. 16258 of 2023 (Sanni Mishra @ Sanjayan Kumar Mishra vs. State of U.P. and others) and directions have been issued to the respondent authorities in this regard.

(iv) Gang Chart is against the formant provided under Form-I, Rule 18 of the U.P. Gangsters Rule, 2021, and there is no description of any incident with date and time to demonstrate the commission of any offence provided under various sub-sections of the Section 2 (1).

(v) The approval of the gang chart dated 01.01.2024 suffers from infirmities and does not qualify for the protection guaranteed under Article 21 of the Constitution of India, having been phrased as "procedure established by law". In this view of the matter, the gang chart is non-est and fails to support the impugned first information report.

7. Reliance on the following judgments have been placed:-

**Mohd. Arif vs. State of U.P. & others, 2024 SCC OnLine All 4622 (Para 6, 7, 9, 25 & 26)**

**Mohd. Kaif vs State of U.P. & others, 2024 SCC OnLine All 1858 (Para 4)**

**A Jaideep Nishad & another vs State of U.P. & others, 2024 SCC OnLine All 445 (Para 5 & 7)**

**Sanni Mishra vs State of U.P. & others, 2023 SCC OnLine All 2975 (Para 12, 13, 17& 18)**

**D.G.P. Circular No. 04/2024, dated 19.01.2024**

2) The investigation of the crime in question is pending till date (Para 15 of Counter Affidavit, dated 25.01.2025) without jurisdiction and authority of law in violation of **Rule 24 of the of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021, which provides period of investigation as six (6) months and in exceptional circumstances for three (3) months more but with the approval of Commissioner of Police, G.B. Nagar and in no case after one (1) year. In the present case, neither any approval for extension of investigation is on record nor the investigation has been completed against the applicant in one year.** Paras 3, 10, 11 & 12 of in the case of Sumit Punjabi @ Sumit Arora vs State of U.P. & another, 2024 SCC OnLine All 8214 have been relied in support of citation noted above.

3) The provisions of section 19 (4) (b) of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, are satisfied in favour of the applicant as the very foundation of the crime no. 02 of 2024, i.e., the Gang chart and the F.I.R., is against the provisions of law and violates the various provisions of the Gangsters Rule, 2021 as per Paras 3 & 8 of the order dated 28.04.2023 in Criminal Misc. Bail Application No. 5750 of 2023 "Sanjay Pratap Singh @ Guddu Singh vs. State of U.P.)

4) When the continuation of the investigation of crime no. 02 of 2024 against the applicant is barred by law and is impermissible under Rule 24 of the Gangsters Rule, 2021, State of U.P. cannot take shelter of the provisions of 19 (4) (b) of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986.

5) The answering opposite party has deliberately not responded to the merit of the case, which establishes the apparent falsehood of the prosecution case, but the answering opposite party is trying to avoid the same by raising technicalities, that too in piecemeal.

6) The applicant is languishing in jail since 26.04.2024, i.e., approximately for one year.

7) Out of a total of sixteen accused, except the applicant, all other fifteen co-accused have been granted bail by this Court.

8) The crime in question is an outcome of malafide on the part of the local police at the instance of the Commissioner of Police, Gautam Buddha Nagar, who is inimical towards the applicant due to filing of Contempt Application (Civil) No. 8223 of 2023. The

background thereof has been elaborated in paragraph nos. 33 to 48 of Bail Application and para 11 of the rejoinder affidavit. However, factual background of the case is as follows:-

(a) The applicant's brother Harinder Nagar, along with his gunner, Vasudeo Sharma was brutally murdered on 08.02.2015 by members of the Sunder Bhati gang, for which Crime No. 10 of 2015, under sections 147, 148, 149, 307 and 302 I.P.C. The first information report was registered by the applicant being an eyewitness against several persons, including Sunder Bhati. After investigation, charge sheet dated 07.05.2015 and a supplementary charge sheet dated 30.06.2015 were submitted against 13 persons, including Sunder Bhati and Rishipal. The criminal History of Sunder Bhati contains approx. 63 criminal cases as per the deponent's knowledge, out of which approx. 12 cases related to the offence of murder and his associates

(b) After the incident dated 08.02.2015 and the registration of crime no. 10 of 2015 against Sunder Bhati Gang, as many as eight criminal cases, including the N.C.R. case, were registered against the associates of the gang of Sunder Bhati.

(c) In May 2015, the applicant was provided with the security of two gunners and a security guard at his house. Other relatives/witnesses were also provided security.

(d) The Sessions Trial No. 558 of 2015 arising out of crime no. 10 of 2015 was decided vide judgement and order of conviction dated 05.04.2021 passed by the court of learned Additional Sessions Judge (F.T.C.) 1st, Gautam Budh Nagar by convicting Sunder Bhati and his gang members, who preferred criminal appeal nos. 2445, 2410, 2411, 2424, 2619, 2620, 2695, 2696, 2734, and 2853 of 2021 before this Hon'ble Court, which is pending.

(e) The security of the applicant and other relatives/witnesses was continuing till July 2023; however, all of a sudden, the local police authorities withdrew the security w.e.f. from 24.07.2023 without giving any opportunity of hearing for the reason best known to the Commissioner of Police, Gautam Buddha Nagar, Smt. Laxmi Singh.

(f) The applicant preferred a civil misc. writ petition being Writ-C No. 35718/ 2023 "Ravindra Nagar Versus State of U. P. and others", in which the interim order dated 16.10.2023 was passed directing the Commissioner of Police, District Gautam Budh Nagar, is directed to provide security to the applicant as was

provided till 24th July 2023 and as conceived in the Witness Protection Scheme formulated in the case of Mahender Chawla (supra)."

(g) When the security was not provided, the applicant filed Contempt Application (Civil) No. 8223 of 2023 before this Hon'ble Court against the Commissioner of Police, Gautam Buddh Nagar, in which this Hon'ble Court passed the order dated 08.11.2023 seeking instructions from the State Counsel.

(h) In a revengeful mode, the police teams started visiting the applicant's house, company office, etc. and giving threat to every person connected to applicant to face dire consequences and it was learnt by applicant from the local police itself that the Police Commissioner will teach a lesson to the applicant for filing the contempt application against her.

(i) The event of withdrawal of his security as well as security of his family and at the same time, due to earlier background of several attempts of his elimination, the continuous pairvi by the applicant to oppose Sundar Bhati and his associates in Criminal Appeal No. 2445, 2410, 2411, 2424, 2619, 2620, 2695, 2696, 2734, and 2853 of 2021, and also the unwarranted illegal raids of local police in the house/office of the applicant were creating immense pressure and anxiety for the applicant. All these circumstances gave an occasion to apprehend extreme life threats. Under the circumstances, which were beyond the control of the applicant, he decided to leave the country and went to Bangkok (Malesia) at 01:00 am of the intervening night of 31.12.2023/01.01.2024.

(j) The local police, under directions of the Commission of Police, lodged two false cases, i.e., a first information report dated 30.12.2023 (Crime No. 896 of 2023, u/s. 376D and 506 I.P.C., Police Station NOIDA Sector-39, District Gautam Buddh Nagar, showing date of incident as 19.06.2023) and the first information report dated 02.01.2024 (Crime No. 0002 of 2024 under Sections 2 (b) (i), 2 (b) (iii), 2 (b) (iv), 2 (b) (viii), 2 (b) (xi), 2 (b) (xii) and 3 of The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Beta-2, District Gautam Buddh Nagar), in which the family members, relatives and employees of the applicant Ravindra Nagar have been implicated based on false facts.

(k) In Crime No. 896 of 2023, one strange lady named Sonam lodged a false first information report dated 30.12.2023 against

applicant and four other persons, including witnesses of crime no. 10 of 2015 (Azad and Vikas) with a concocted story of rape on 19.06.2023 at 01:00 pm (six months before the lodging of the case), whereas the truth is that the co-accused Azad's mother had died on 19.06.2023 (date of incident) at 05:00 am in village Daudpur, wherein he remained there for all the rituals. Likewise, the applicant Ravi Nagar and his wife Madhu Nagar visited Varanasi city on 19.06.2023 (the date of incident) from the Indigo flight and had returned on 20.06.2023, for which they both reached the Indira Gandhi Airport, Terminal-2 before the boarding time 09:20 am on 19.06.2023. Moreover, the 24 hours gunner security of the applicant continued till 23rd July 2023.

(l) On 31.12.2023, three persons, Azad Kumar, Vikas and Rajkumar, were arrested by the local police in crime no. 896 of 2023, but their arrest was shown in police records on 01.01.2024.

(m) On 02.02.2024, the crime in question was lodged against the applicant, his wife and as many as 14 other persons under the provisions of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986. Out of these 16 persons, two are females (including the applicant's wife), and all these persons are either family members, relatives, family friends or employees of the applicant.

(n) Immediately after getting these cases lodged, the Police Authorities filed a Recall Application in Writ-C No. 35718 of 2023 on 09-01-2024 and a counter affidavit in Contempt Application (Civil) No. 8223 of 2023 on 16.01.2023.

(o) On 09.02.2024, the Commissioner of Police passed order u/s. 14(1) of the U.P. Gangsters Act, 1986, whereby the entire property, office, movables, vehicles and bank accounts of the applicant and his companies have been attached.

8. The applicant had preferred Criminal Writ No. 259 of 2024 (Ravi Nagar and another vs. State of U.P. and others) for quashing of F.I.R. dated 02.01.2024, wherein the issues/facts raised by the State of U.P. in the counter affidavit/suppl. Counter affidavit and also in the arguments of present bail application were also raised, in which even the issues about illegalities committed in approval of gang chart and F.I.R. were categorized in the orders, however the applicant and his family/relatives were forced by the local police to not only withdraw the said Criminal Writ No. 259 of 2024 (Ravi Nagar and another vs. State of U.P. and others), but also the Contempt Application (Civil) No. 8223 of 2023. As such,

withdrawal applications were filed by the applicant in two aforesaid petitions. In Criminal Writ No. 259 of 2024, the Hon'ble Division Bench, despite framing issues in its earlier order, entombed those issues and permitted the withdrawal of the writ petition vide order dated 15.07.2024 and withdrawal of Contempt Application (Civil) No. 8223 of 2023 vide order dated 13.05.2024, which was passed in presence of State Counsels.

9. The alleged criminal history shown in the DCRB reports discloses few relevant facts that before the year 2015 (when the applicant's brother was murdered), the applicant was implicated in eight criminal cases, which are mostly minor offences and were the outcome of petty disputes and even the proceedings of one criminal case were quashed. Thereafter in the year 2018, he was implicated in five criminal cases, out of which two cases resulted in final reports. However, since 2023, the applicant has been implicated in series of criminal cases (a total of 12 cases so far) just to project him as a hardened criminal and keep him behind bars anyhow, details whereof are already on record. Out of those 12 criminal cases, recently, the local police have lodged four F.I.Rs., crime no. 0580 of 2024, 0904 of 2024, 0736 of 2024 and 474 of 2024 against the applicant in December 2024.

10. These four recent criminal cases have been lodged after the order of this Court in Criminal Appeal (u/s. 14A-2 of SC/ST Act) No. 5981 of 2024 seeking bail in crime no. 0896 of 2023, dated 05.12.2024, whereby 10 days time were granted to the State of U.P. to seek instructions regarding travel by Indigo Airlines by the accused with his wife on the date of the incident dated 19.06.2023, a true copy whereof is annexed as Annexure No. RA-2 to the rejoinder affidavit.

11. The allegations levelled in the recently registered crime no. 736 of 2024 (annexure no. SCA-3 of the suppl. Counter affidavit) are verbatim the same as alleged in the crime in question, i.e., the crime no. 0580 of 2024, except the details of crime no. 896 of 2023 (gang-rape case), wherein one Anticipatory Bail Application was filed on behalf of the present applicant. As such, the crime in question, i.e., the crime no. 0580 of 2024 amounts to the lodging of a second and repetitive first information report for the same allegations and the offences alleged therein. This action is barred by law as settled by the Hon'ble Supreme Court in its various pronouncements, including T.T. Antony vs. State of Kerala, 2001 (6) SCC 181. Moreover, the offences u/s 419, 420, 467, 468, 471, 120-B of I.P.C. do not constitute the allegations levelled in the impugned First Information Report dated 16.12.2024.

12. The recently registered crime no. 906 of 2024 (annexure no. SCA-4 of the suppl. Counter affidavit) is false and concocted and the exemption applications were filed on behalf of the applicant through his advocate in the lower court, in which the term "Jariye Adhivakta" is written and before this term, the name of the applicant is written, which is being claimed to be signature of the applicant. There is a common practice of filing exemption applications before the learned court below through counsel, which does not constitute any offence.

13. The truth is that the applicant is being victimized and is facing his implication in the crime in question due to the annoyance of the Commissioner of Police, Gautam Buddh Nagar.

14. In above view of the matter, the applicant is entitled to be released on bail in the crime in question.

15. Learned Additional Advocate General has vehemently opposed the submissions made by learned Senior counsel for the applicant and submitted that the accused-applicant is a hardened criminal and is gang leader and although in the gang-chart only 3 criminal cases have been shown against him, but apart from that there are several other criminal cases of heinous offences registered against the accused-applicant and merely release on bail does not absolve the accused-applicant from his criminal liability.

16. Higher police officers have forwarded the gang-chart after perusing the entire documents pertaining to the case and thereafter, after a joint meeting, the Commissioner of Police, Gautam Buddh Nagar on 01.01.2024 has approved the gang-chart and thereafter, the first information report of the present case was registered against the accused-applicant and other co-accused persons on 02.01.2024 after completing all the necessary formalities. Before lodging the first information report of the present case all the mandatory provisions of Uttar Pradesh Gangsters And Antisocial Activities (Prevention) Rules-2021 as well as U.P. Gangsters and Antisocial Activities (Prevention) Act, 1986 were duly followed and it does not suffers from any infirmity or illegality.

17. So far as the Contempt Application (Civil) No. 8223 of 2023 is concerned, in the aforesaid case a counter affidavit was filed and this Court dismissed the same as withdrawn on 13.05.2024. It is relevant to mention herein that the proceedings under the Gangsters Act was initiated against the accused-applicant without prejudice in any manner whatsoever, rather the same was initiated

as the accused-applicant is a hardened criminal having long criminal history of heinous offences to his credit and has indulged himself in committing crimes in an organized manner with his other gang members for the pecuniary benefits of the gang.

18. In fact, the accused-applicant and other co-accused person indulged in the business of iron-rod and scrap for a long period of time and the modus operandi of the accused-applicant and his other gang members is to intercept the trucks going to unload the *Sariya* at different sites, get unloaded part of *Sariya* with the collusion of the truck drivers and thereafter, after threatening manager of the sites get entered the entire load of *Sariya* at the sites and thereafter, they used to sell the *Sariya* in the open market and get undue profit and further the accused-applicant and other co-accused used to obtain the tenders of scrap of different business establishment after extending threatening to owners of that business establishment, due to which the owners of that business establishment used to suffer huge financial loss and no other business establishment could dare to participate in filling the tenders.

19. Due to the aforesaid criminal activities of the accused-applicant one of the company of the accused-applicant namely "Prime Pressing Tools Private Limited" in the last three years has grown @ 97% per annum. It is further relevant to mention herein that according to the input received from U.P. STF, the accused-applicant was doing the work of illegal *Sariya* and Scrap for the gang of Anil Dujana. The murder of elder brother of the accused-applicant, namely, Pradhan was committed by the gang of Sunder Bhati and as the accused-applicant was a witness in the murder case of his brother against the gang of Sunder Bhati Govt. security was provided to the accused-applicant and other family members of the accused-applicant and they were misusing the aforesaid security and under the aforesaid circumstances, the Government security provided to the accused-applicant was withdrawn.

20. It is relevant to mention herein that as the accused-applicant and his other gang members used to terrorize the owners of the different companies to obtain the tenders of Scrap and mis-use the *Saria* while it was in transit and due to their criminal activities none could dare to depose against them and the accused-applicant and other co-accused persons used to commit crimes for the pecuniary benefits of the gang and under the aforesaid circumstances after following due process of law a first information report under the Gangsters Act was registered against

the accused-applicant and other co-accused persons.

21. It is further relevant to mention herein that the accused-applicant is a gang leader and he along with his other gang members used to commit crime for the pecuniary benefits of the gang and the accused-applicant has created huge moveable and immovable properties including different vehicles, landed properties and many bank accounts and total moveable and immovable properties of more than Rs. 125 Crores of the accused-applicant were attached.

22. Applicant is a hardened criminal having long criminal history to his credit, the appellant is also an accused in Case Crime No. 74 of 2023, under Sections 341, 342, 386, 500, 385, 506 I.P.C., Police Station Ecotech-III, District Gautam Budh Nagar and in the aforesaid case crime, the applicant has filed a Criminal Misc. Anticipatory Bail Application No. 8664 of 2023 before this Hon'ble Court and this Hon'ble Court vide its order dated 18.08.2023 has granted anticipatory bail to the applicant with the condition that he has not to leave the Country during pendency of trial without prior permission from the concerned Trial Court and he shall surrender his Passport.

23. Surprisingly enough contrary to the aforesaid condition the applicant did not surrendered his Passport and left the country on 01.01.2024 from Delhi Airport by Flight No. TG-332 and when he was abroad and not present in the country (Gautam Budh Nagar) he has sworn an affidavit on 04.01.2024 in an anticipatory bail application filed before District and Sessions Judge, Gautam Budh Nagar. The aforesaid fact clearly goes to suggest that the applicant has no respect for judicial process and mad mockery of the orders of the Courts.

24. Applicant has left the country on 01.01.2024 and thereafter, he has filed Criminal Misc. Writ Petition No. 259 of 2024 regarding which the applicant has signed a *Vakalatnama* in favor of his advocate, when the applicant was abroad and further at the time of argument when the aforesaid fact was brought to the knowledge of the Court, then the aforesaid writ petition was withdrawn by the counsel for the applicant.

25. So far as the Contempt Application (Civil) No. 8223 of 2023 is concerned, in the aforesaid Contempt Application a counter affidavit was filed and ultimately the same was dismissed as withdrawn.

26. Investigation of the present case is in progress and during the course of investigation, the Investigating Officer has collected sufficient credible evidence showing the complicity of the accused-applicant in commission of crime.

27. The accused-applicant after terrorizing different businessmen has expanded his business in a very aggressive manner and as the accused-applicant by his criminal activities has earned number of properties and accordingly attachment proceedings were also initiated and moveable and immovable properties of more than 125 Crores of the accused-applicant were attached.

28. After considering the rival submissions and going through the documents filed by the parties on record. This Court finds that the implication of the applicant is under different sections of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986. The legal submission made by the learned Senior counsel for the applicant is that under Rule 24 of the U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021, period of investigation provided is six months and exceptional circumstances, it can be extended for three months, but with approval of Commissioner of the Police and in no case beyond one year. It has been emphasized that no approval for extension of investigation is on record when more than 1 year has passed. No justification has come forthwith from the side of the State for keeping the investigation pending against the applicant beyond the statutory period.

29. This Court is of the view that the Rule of Strict Interpretation of Penal statutes applies to this case. The Apex Court in the case of **Mohd. Wajid and Others Vs. State of U.P. and Others, 2023 SCC OnLine SC 951** has held that general rule governing the interpretation of a penal statute is that it must be strictly construed. Similar is the ratio of the judgment of the Apex Court in the case of **Mohd. Rahim Ali @ Abdur Rahim, Vs. State of Assam and Others, 2024 SCC OnLine SC 1695** wherein the Apex Court has held that if special provisions are made in derogation to the general rights of the citizen; statute should receive strict construction. Similar view has been expressed by the Apex court in the case of **Jai Kishan and Others Vs. State of U.P. and Others 2025, SCC OnLine SC 296**. Further in the case of **M. Ravindran Vs. Directorate of Revenue Intelligence (2021) 2 SCC 485**, the Apex Court has held in the paragraph no. 17.9 that in case of any ambiguity in construction of penal statute, the Courts must favour interpretation which leans towards protecting right of the accused. Apex Court has also held that this principle is applicable not only in case of substantive penal statutes, it is also applicable in case of

procedures providing for curtailment of liberty of the accused. Lastly, in the case of **Arvind Kejriwal Vs. Enforcement Directorate, (2025) 2 SCC 248** the Apex Court has decried arbitrary exercise of power by State and has held as follows:-

*" The legality of the "reasons to believe" have to be examined based on what is mentioned and recorded therein and the material on record. However, the officer acting under [Section 19\(1\)](#) of the PML Act cannot ignore or not consider the material which exonerates the arrestee. Any such non-consideration would lead to difficult and unacceptable results. First, it would negate the legislative intent which imposes stringent conditions. As a general rule of interpretation, penal provisions must be interpreted strictly.<sup>49</sup> Secondly, any undue indulgence and latitude to the DoE will be deleterious to the constitutional values of rule of law and life and liberty of persons. An officer cannot be allowed to selectively pick and choose material implicating the person to be arrested. They have to equally apply their mind to other material which absolves and exculpates the arrestee. The power to arrest under [Section 19\(1\)](#) of the PML Act cannot be exercised as per the whims and fancies of the officer.*

*Undoubtedly, the opinion of the officer is subjective, but formation of opinion should be in accordance with the law. Subjectivity of the opinion is not a carte blanche to ignore relevant absolving material without an explanation. In such a situation, the officer commits an error in law which goes to the root of the decision making process, and amounts to legal malice.*

**A wrong application of law or arbitrary exercise of duty leads to illegality in the process. The court can exercise their judicial review to strike down such a decision.** *This would not amount to judicial overreach or interference with the investigation, as has been argued by the DoE. The court only ensures that the enforcement of law is in accordance with the statute and the Constitution. An adverse decision would only help in ensuring better compliance with the statute and the principles of the Constitution. "*

30. Learned Senior Counsel for State has also not replied to the specific arguments raised with regard to the non-compliance of the specific Rules of the Gangsters Rules and the argument regarding gangchart not being under Form- I Rule 2018 of U.P. Gangsters Rules, 2021.

31. The next consideration in this bail application is regarding

malafides involved on the part of the Commissioner of Police, Gautam Buddh Nagar. The details of the reasons why the aforesaid police officer was annoyed with the applicant were submitted before this Court by the learned Senior Counsel for the applicant, but no specific reply has been given. Details in this regard have been given by the learned counsel for the applicant to prove that implication of applicant in number of cases is because of the malafide on the part of the police officer aforesaid.

32. Learned counsel for the State has pointed out that the applicant violated the terms of anticipatory bail order and did not surrendered his passport and left the country on 01.01.2024, after he was granted anticipatory bail in case crime no. 74/2023.

33. This Court finds it to be a ground for cancellation of bail since the condition of anticipatory anticipatory bail was violated by the applicant, but there is nothing on record to show that State moved any bail cancellation application in the aforesaid case.

34. Clearly when the investigation in this case has become barred by law as per Rule 24 of the Rules the rigorous of Section 19(4) (b) of U.P. Gangsters Act, will not have any affect on the rights of the applicant. The applicability of Section 19(4)(b) of the Gangsters Act would have been considered, had the investigation been conducted as per Rule 24 of the Rules, but here case is otherwise.

35. Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the applicant, keeping in view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India, considering the paragraph no.53 of Apex Court in the case of **Manish Sisodia Vs. Directorate of Enforcement 2024, (SC)LawSuit 677** and considering 5-6 times overcrowding in jails over and above their capacity by under trials and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions that :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

36. In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

37. Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

**Order Date :- 28.4.2025**

Abhishek