2026:AHC:238693

A.F.R.

Reserved on 24.08.2026
Delivered on 23.11.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 2214 of 2026

Faisal

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Waseem Akram
Counsel for Opposite Party(s)	:	G.A.

In Chamber

HON'BLE TARUN SAXENA, J.

1. Supplementary affidavit filed on behalf of the applicant is taken on record.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material on record.

3. The instant application under Section 528 B.N.S.S. has been filed with the prayer to quash the entire proceedings, including charge sheet dated 05.10.2019 as well as cognizance / summoning order dated 23.12.2019, of Special Session Trial No. 549 of 2019 (State Vs. Nadeem and Others), arising out of Case Crime No. 0157 of 2019, under Section 3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Sambhal, District Sambhal, pending before the Court of learned Additional District Judge / Special Judge (POCSO Act), Sambhal at Chandausi.

4. It is submitted by learned counsel for the applicant that initially the applicant was implicated in a solitary case relating to Gambling Act and on the basis of the said solitary case the impugned gang chart was prepared. It has been submitted that the proceedings of the solitary base case have been quashed by this Court vide its order dated 04.02.2026 passed in Application U/S 528 BNSS No.- 1540 of 2026. It is submitted that since proceedings in the base solitary case have already been quashed by this Court, and there being no on-going prosecution of the applicant for any offence involving anti-social activities as defined in Section 2(b)(i) or 2(b)(vi) of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, the continuation of the proceedings of the criminal case and the charge sheet filed against the applicant pursuant to the said Case Crime No. 0157 of 2019, under Section 3(1) of U.P. Gangsters and Anti-Social Activities Act is absolutely unjustified and tentamounts to abuse of process of the Courts. Reliance has been placed on the judgment of the Hon'ble Apex Court in **Farhana Vs. State of U.P. (2024) SCC online SC 159**.

5. Per contra, learned A.G.A. has opposed the prayer and submitted that there is no dispute that at the time of registration of the concerned FIR under the U.P. Gangsters Act, the applicant was being prosecuted for offences punishable under the Public Gambling Act, 1867, which fall within the meaning of "anti-social activities" as defined under Section 2(b)(vi) of the U.P. Gangsters Act. Hence, the proceedings arising out of the said crime number under the U.P. Gangsters Act cannot be quashed in light of the decision rendered by the Apex Court in the case of **Shraddha Gupta Vs. State of U.P. (2022) SCC online SC 514.**

6. Thus, the sole question presented for adjudication in this application before this Court is whether the proceedings arising out of the said impugned gang chart under the provision of Gangsters Act, and the prosecution of the accused, can be continued despite exoneration in the predicate offence covered by Section 2(b)(vi) of the Gangsters Act. The U.P. Gangster and Anti Social Activities (Prevention) Act, 1986 as its preamble suggests, intends prevention of a proliferation of Gangsters and Anti Social Activities. Section 2 of the Act defines gang and gangsters

7. For the sake of convenience, the provision of Section 2 of the Act 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;"

8. From the bare perusal of Section 2(b) of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, it would become apparent that the person alleged to be the member of the gang must be found indulgent in an anti-social activity, which would be covered under the provision of said section i.e. Section 2(b) sub-clause (I) up to sub-clause(XXV).

9. It is needless to say that for framing a charge for the offences under the Gangsters Act and for continuing the prosecution of the accused under the above provision, the prosecution would be required to clearly state that the applicant accused is being prosecuted for one or more offences covered by anti-social activities as defined under Section 2(b) of the U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986. Since, there is no dispute in the proceedings of the solitary base case registered against the applicant for the offence punishable under Section 3 of the Public Gambling Act being Case Crime No. 0157 of 2019, under Sections 3(1) of U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986, Police Station Sambhal, District Sambhal, the applicant stand exonerated with the quashing of the said proceedings by this Court by exercising its power under Section 528 BNSS vide its order dated 04.02.2026, hence, very foundation for continuing the prosecution of the applicant under the provisions of the Section 3(1) of U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986 stands struck of and as a consequence the continued prosecution of the applicant for the said offence is unjustified and tentamounts to the abuse of the process of the Courts as held by the Hon'ble Apex Court in the case of **Farhana Vs. State of U.P.**

10 As a consequence of the discussion made herein above, the present applicant deserves to be allowed. The present application under Section 528 BNSS is hereby **allowed**.

11. The entire proceedings, including charge sheet dated 05.10.2019 as well as cognizance / summoning order dated 23.12.2019, of Special Session Trial No. 549 of 2019 (State Vs. Nadeem and Others), arising out of Case Crime No. 0157 of 2019, under Section 3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Sambhal, District Sambhal, pending before the Court of learned Additional District Judge / Special Judge (POCSO Act), Sambhal at Chandausi in respect of the applicant- Faisal, are hereby quashed.

12. Let this order be communicated to the Trial Court concerned through Registrar (Compliance).

(Tarun Saxena,J.)

November 23, 2026
SK Srivastava

Digitally signed by :-
SAILESH KUMAR SRIVASTAVA
High Court of Judicature at Allahabad