

(1994) 10 AHC CK 0016

In the Allahabad High Court

Case No : Habeas Corpus Petition No. 16291 of 1993

Umakant Yadav

APPELLANT

Vs

Superintendent of District Jail and Others

RESPONDENT

Date of Decision : 05-10-1994

Acts Referred:

Constitution of India, 1950 — Article 21, 22
Criminal Procedure Code, 1973 (CrPC) — Section 167, 167(1), 167(2), 2A
Customs Act, 1962 — Section 104
Foreign Exchange Regulation Act, 1973 — Section 35
Penal Code, 1860 (IPC) — Section 147, 148, 149, 201, 302

Citation : (1995) CriLJ 906

Hon'ble Judges : S.K. Phaujdar, J; R.B. Mehrotra, J

Bench : Division Bench

Advocate : Daya Shanker Mishra, for the Appellant; D.G.A., for the Respondent

Final Decision : Dismissed

Judgement

R.B. Mehrotra, J.—By means of the present habeas corpus petition, the petitioner has challenged his detention in District Jail, Azamgarh and has also prayed for quashing of the first information report dated 11-9-1993, on the basis of which a case Crime No. 86/1993 has been registered against the petitioner for investigation of an offence alleged to have been committed by the petitioner u/s 3(1) of U. P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 (U.P. Act No. 7 of 1986) (hereinafter referred to as "the Act").

2. The first information report dated 11-9-1993, which is sought to be quashed in the present proceedings, is to be looked into for the purposes of examining the contentions raised by the petitioner's counsel seeking its quashing.

3. The first information report has been filed by the Station Officer, Didarganj, district Azamgarh. The report reads, that the records available in Police Station Didarganj, have been looked into and from the perusal of the aforesaid records, it is borne out that the accused, Umakant Yadav S/o Sri Sripat Yadav r/o village,

Sarawa, Police Station Didarganj, district, Azamgarh has a criminal gang and he is the chief member of his gang. Following criminal cases have been registered against Umakant Yadav :--

1. Case Crime No. 16/88, under Sections 147/ 148/149/324/323 of I.P.C. P.S. Didarganj.
2. Case Crime No. 74/78, under Sections 364/ 302/201 of I.P.C. P.S. Shahganj, district, Jaunapur.
3. Case Crime No. 108/91, under Sections 147/148/149/307/323/504/506 of I.P.C. P.S. Didarganj.
4. Case Crime No. 171/91, under Sections 147/148/149/307/323/504/506 of I.P.C. P.S. Phoolpur.
5. Case Crime No. 10/92, under Sections 382/ 506 of I.P.C. P.S. Didarganj.
6. Case Crime No. 194/92, under Sections 364/506 of I.P.C.
7. Case Crime No. 6/93, under Sections 147/148/149/364/307/302/201 of I.P.C. P.S. Didarganj, district, Azamgarh.

4. In this manner, this person has not an active organised gang. This man always along with the members of his gang commits offences punishable under chapter 16, 17 and 22 of the Indian Penal Code for gaining undue pecuniary, material and social advantages for himself and for other members of his gang and remains indulged in anti-social activities.

5. This man, along with his companion culprits, remains indulged in serious offences like dacoity, killing, rioting, loot etc. The aforesaid Umakant Yadav is at present in District Jail, Azamgarh in connection with case Crime No. 6/ 1993, under Sections 147/148/149/364/307/302 of I.P.C. by surrendering himself before the court and is in judicial custody. On perusal of the crime record of Umakant Yadav, it is made out that this man is involved in such serious criminal offences, which are connected with anti-social activities. Due to fear and terror of this man, any person does not dare speaking the truth in relation to the incident, either before the police, or before the court. Due to his criminal acts, a fear and sensation has been created in the mind of a common man. Due to his criminal actions, the fear and terror has struck amongst people residing in the area of police station, Saraieer and Phoolpur of district, Azamgarh and police station, Shahganj of district, Jaunpur. In the aforesaid circumstances, it is not in public interest that the aforesaid Umakant Yadav may remain at large, therefore, the aforesaid Umakant Yadav should be detained u/s 3(1) of the Act, the crime case be registered and investigation be directed.

6. On 13-4-1993, an application was moved before the IV Additional Munsif Magistrate, Azamgarh bearing case Crime No. 86/1993, wherein it was stated that the accused, at present, is in jail custody. He is a dangerous criminal and has been detained in different criminal cases. In all these cases, bail application

is being heard in the Court of Session and if remand is not given and in cases in which the bail applications are being heard, he is released on bail; it will be difficult for the police to get hold of him, therefore, it is prayed that the request for his remand may be considered today. On the said application, the Presiding Officer of the court passed an order that the counsel for the accused wants time for making submissions, therefore, the matter may be put up on 15-4-1993. On 15-4-1993, the IV Additional Munsif Magistrate directed that the papers be laid before the proper court. However, thereafter a note was put up by the office that under the orders of the Chief Judicial Magistrate, all pending applications are to be heard by the Magistrate, before whom the matters are pending. Consequent thereto, the IV Additional Munsif Magistrate passed the following order:

Heard. Accused is brought before me. F.I.R. is produced for perusal. Accused is named in the F.I.R. Prima facie is made out under the alleged offence.

Order

Accused is taken into remand for fifteen days u/s 3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986.

7. The petitioner has inter alia challenged, that the aforesaid order, passed by the IV Additional Munsif Magistrate, Azamgarh remanding the petitioner to jail custody, is patently illegal and is violative of the provisions of Section 167(1) and (2) of the Code of Criminal Procedure hereinafter referred to as "Code" and the continuance of the petitioner's detention is illegal.

8. We have heard Sri Daya Shanker Mishra, learned Counsel for the petitioner and the learned Additional Government Advocate.

9. Learned Counsel for the petitioner has submitted as many as seven points in support of his contentions.

10. The first six points relate to the petitioner's first contention that on the basis of the first information report, no proceedings under Gangsters Act can be initiated against the petitioner and the seventh point relates to the petitioner's second contention that the petitioner is in jail custody without any authority of law, as the order of remand passed against the petitioner by the IV Additional Munsif Magistrate, Azamgarh is patently illegal and violative of procedural safeguard contemplated by Section 167 of Code of Criminal Procedure.

11. The first six points canvassed by the petitioner's counsel that the first information report filed against the petitioner under the Act is liable to be quashed and no proceedings under the Gangsters Act can be initiated against the petitioner are being noticed in seriatim:

1. On the basis of the first information report, no proceedings under the Gangsters Act can be initiated against the petitioner.

2. Since already proceedings under Gangsters Act are pending against the petitioner, which were initiated in the year 1987, no fresh proceedings under the

said Act can be initiated.

3. The petitioner is already being tried for all the offences mentioned in the F.I.R., as such, the petitioner cannot be tried for the same offence again under the provisions of the Act. In support of the aforesaid contention, the petitioner has referred to and relied upon Section 8 of the Act, which provides that while trying any offence punishable under this Act, a special court may also try any other offence, which the petitioner committed under any other law for the time being in force, in the same trial. The contention of the petitioner's counsel is that the petitioner cannot be tried separately for the same offence, one under I.P.C. and the other under the Act.

4. The gang chart shows that the offences alleged to have been committed by the petitioner even in the year 1983 have been taken into consideration for initiating the proceedings, the Act itself was enacted in 1986 and has no retrospective operation, therefore, the aforesaid proceedings are vitiated in law.

5. There is no material on record for arriving at the conclusion that the petitioner has committed offences for personal gain or for disturbing public order.

6. The petitioner alleges that there is no justification in choosing only the petitioner for being proceeded with under the Act, whereas the other persons named in the F.I.R. who have committed the said offences, have not been proceeded with under the Act.

12. The aforesaid contention are being dealt with in the same order, in which they have been canvassed. On a careful reading of the first information report and on scrutiny of the provisions of Section 2(b) (c) of the Act, it is not possible to accept the petitioner's contention that from the reading of the first information report, the petitioner cannot be proceeded with under the provisions of the Act. It is true that there is some irrelevant material in the first information report for the purposes of considering the prosecution of the petitioner under the provisions of the Act, then merely on the basis of some irrelevant material it cannot be said that the first information report does not disclose any offence against the petitioner for being proceeded with under the provisions of the Act.

13. The Second contention of the petitioner that since already a case under the Gangsters Act is pending against the petitioner, no fresh case can be registered, is also not supported by any provisions of the Act. There is no prohibition under the Act that if the petitioner is already being tried for an offence under the Act and the petitioner again commits another offence under the Act, he cannot be tried separately for the same, as such, we do not find any merit in the second point also.

14. In Ashok Kumar Dixit Vs. State of U.P. and Another, Full Bench of this Court upheld the validity of the "Act" therein, the Court refused to consider the merits of the individual cases of the petitioner on the ground that all cases are at the investigation stage. The Full Bench held that the Court should not interfere at the

stage of investigation and on the aforesaid basis, refused to examine the merit of the individual contention of the petitioner's challenging the validity of the proceedings to be initiated against the petitioners in those cases on the basis of the first information report. The Full Bench in its turn has relied upon a decision of the Supreme Court in *Eastern Spinning Mills and Virendra Kumar Sharda and Another Vs. Rajiv Poddar and Others*, , the Court held:-- (para 4)

We consider it absolutely unnecessary to make a reference to the decision of this Court and they are legion which have laid down that save in exceptional cases where non-interference would result in miscarriage of justice, the Court and judicial process should not interfere at the stage of investigation of offences.

15. In view, of the above decision, we are not inclined to interfere in the proceedings initiated against the petitioner u/s 3(1) of the Act. The contentions raised by the petitioner in regard to points 3 to 6 can be agitated during the trial itself. We are of the view that expressing any opinion on the aforesaid contention in this petition may prejudice either side in trial itself, as such, we refrain to make any comments on the submissions made by the learned Counsel for the petitioner on points 3 to 6, which in effect have direct bearing on the trial of the petitioner under the provisions of the Act.

16. The second aspect of the petitioner's contention that the order of remand directing the petitioner to be kept in jail custody by the Magistrate is illegal, now is left to be considered.

17. Before considering the submission regarding validity of the remand order directing the petitioner to be kept in jail custody, it is necessary to mention that in the counter affidavit, it has been stated that the remand was again considered by the Special Judge (Gangsters Act), on 28-4-1993, who after looking into the case diary of case Crime No. 86/93, which was produced before the Special Judge (Gangsters Act), Gorakhpur and after --seeing and applying his mind, the concerned learned court has passed the order according to law.

18. In the counter affidavit filed by the Deputy Jailor, District Jail, Azamgarh, it has been stated that the petitioner, Umakant Yadav is in jail custody in case Crime No. 194/93 under Sections 364/506 IPC, P.S. Didarganj, District, Azamgarh and case Crime No. 86/93, u/s 3(1) of U. P. Gangsters Act and in the aforesaid cases 6-6-93 and 29-7-93 have been fixed respectively. In reply to the aforesaid averment, the petitioner has filed rejoinder affidavit, wherein the petitioner has stated that in case Crime No. 86/93, the Special Judge, Gorakhpur vide his order dated 28-4-93, has mechanically passed the order remanding the accused, like putting a rubber stamp on the remand order without application of mind. The remand order passed by the Special Judge, Gorakhpur has been filed as annexure-S.A. 1. The remand order reads:

In case Crime No. 86/93 u/s 3(1) of U. P. Gangsters Act, P. S. Didarganj, district, Azamgarh v, Umakant Yadav.

In the above case the accused was produced before the court from District Jail, Azamgarh in police custody by Station Officer, Saraimir for remand. The statements of the witnesses are incomplete, therefore, the remand is accepted from 28-4-93 to 29-7-93. The accused may remain in custody in District Jail, Azamgarh and be produced in the court on 29-7-93.

19. For examining the contention of the petitioner's counsel regarding validity of the remand order two aspects require consideration.

20. The first aspect is as to whether the remand order passed on 15-4-1993 was not a valid remand order and the second aspect in connection with this point is as to whether the remand order passed on 28-4-1993 is a valid remand order ? and if so, its effect.

21. U. P. Gangsters and Anti-Social Activities (Prevention) Act 1986 is a special Act and Section 20 of the Act provides that the provisions of this Act or any rules framed therein shall have effect notwithstanding anything inconsistent therewith contained in any other enactment. The provisions of the Act will have overriding effect on any other law including the provisions of the Code of Criminal Procedure. Section 19 of the Act contemplates that every offence punishable under the Act shall be deemed to be a cognizable offence within the meaning of Clause (c) of Section 2 of the Code. Section 19(2) of the Act provides that Section 167 of the Code shall apply into the case involving offence punishable under the Act and with reference to Sub-section (2) of Section 167 of the Code. The word 15 days and 60 days shall be construed as a reference to 90 days and one year respectively and Section 2A and Section 167 of the Code shall be deemed to have been omitted. Section 10 of the Act provides that a special court may take cognizance of any offence triable by it that the accused is being committed to it for trial upon receiving a complaint of facts, which constitutes such offence or upon a police report of such facts.

22. Reading of the aforesaid provisions, in the context, of the statements made in the counter affidavit, that Special Judge exercising its power u/s 19(2) of the Act has remanded the petitioner to a judicial custody for a period of 90 days taking cognizance on the first information report u/s 10 of the Act and perusing the case diary. It has not been controverted in the rejoinder affidavit that the aforesaid remand order was passed by the Special Judge after looking into the case diary. The order also shows that the Special Judge has not mechanically passed the order, but after looking into the case diary, he was satisfied that the statements of the witnesses have not been completed and in the aforesaid background after application of his independent mind, was satisfied that the petitioner's further remand in jail custody is required for a period of 90 days permissible under the provisions of the Act. We are unable to appreciate the submission of the learned Counsel for the petitioner that there is any illegality in the remand order passed by the Special Judge on 28-4-1993.

23. The petitioner's counsel has mainly submitted that u/s 167(1) of the Code if

an investigation against the person arrested cannot be completed within 24 hours, it is an obligation on the part of the Police Officer to forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary prescribed relating to the case and to forward the accused to the Magistrate forthwith, meaning thereby that before producing the detained person before a Magistrate, seeking remand u/s 167(2) of the Code, the Magistrate should apply its independent mind, look into the case diary and after being satisfied that the detention of the arrested person in the custody is necessary, authorises such detention. It is further provided that if the Magistrate has no jurisdiction to try the case or commit it for trial and considers further detention unnecessary. He may order the accused to be forwarded to a Magistrate having such jurisdiction. In the present case the IV Additional Munsif Magistrate, Azamgarh had no jurisdiction to either try the case or commit it for trial. Section 7 of the Act provides that where a special court has been constituted for any local area, any offence punishable under any provision of the Act shall be triable only by the special court within whose local jurisdiction the offence was committed. The IV Additional Munsif Magistrate has no option but to forward the accused to the Magistrate having jurisdiction in the matter, which in the present case is Special Judge, Gorakhpur. In such situation, even if, we presume that the IV Additional Munsif Magistrate while remanding the petitioner for 15 days did not exercise his independent mind and did not look into the case diary before remanding the petitioner, it is clear that he had no jurisdiction to release the petitioner even in case where he was of the opinion that the detention is unnecessary. So any alleged illegality or irregularity in remanding the petitioner vide order dated 15-4-93 is of no consequence in the present case.

24. Learned Counsel for the petitioner has laid stress on the observations of a Division Bench of this Court in *Swami Hariharanand Saraswati and Others Vs. The Jailor I/C Dist. Jail, Banaras*, where in the Court held: (Para 32)

The provisions of Section 167(1), Cr. P.C., indicate that the policy of the law is to bring an independent judgment to bear on the matter for, it is provided in that Section that the Magistrate before whom an arrested person is produced is also to have before him "a copy of the entries in the diary". That means that the Magistrate before whom the production has to be made has to scrutinize the act of others and to see whether the act was legal and proper and further whether the formalities required by law had been complied with....

25. The learned Counsel for the petitioner has also referred to and relied upon the observations made by the Hon'ble Supreme Court in *Hitendra Vishnu Thakur and Others Vs. State of Maharashtra and Others*, wherein the Hon. Supreme Court held:

The Magistrate, on the production of the accused and case diary, must scrutinise the same carefully and consider whether the arrest, was legal and proper and whether the formalities required by law have been complied with then to grant further remand, if the Magistrate is so satisfied.

26. The stress of the learned Counsel is on the aspect that the Magistrate while remanding the petitioner to jail custody on 15-4-1993, neither looked into the case diary nor applied his independent mind before remanding the accused to jail custody.

27. However, the Hon'ble Supreme Court was seized of a similar situation in the case of Directorate of Enforcement Vs. Deepak Mahajan and another, of the construing the scope of Section 167(1) of the Code qua reference to the provisions of the Special Act u/s 35 of the Foreign Exchange Regulations Act or Section 104 of the Customs Act, which were Special Acts. The present case is also a case of Special Act and the provisions of the Act have an overriding effect on the provisions of the Code. In the aforesaid context the observations of the Hon'ble Supreme Court are relevant for the controversy raised in the present matter.

47. Section 167 is one of the provisions falling under Chapter XII of the Code commencing from Section 154 and ending with Section 176 under the Caption "Information to the police and other powers to investigate". Though Section 167(1) refers to the investigation by the police and the transmission of the case diary to the nearest Magistrate as prescribed under the Code etc, the main object of Sub-section (1) of Section 167 is the production of an arrestee before a Magistrate within twenty-four hours as fixed by Section 57 when the investigation cannot be completed within that period so that the Magistrate can take further course of action as contemplated under Sub-section (2) of Section 167.

56. In the backdrop of the above legal position, the conclusion that can be derived is that a Magistrate can himself arrest or order any person to arrest any offender if that offender has committed an offence in his presence and within his local jurisdiction or on his appearance or surrender or is produced before him and take that person (offender) into his custody subject to the bail provisions. If a case is registered against an offender arrested by the Magistrate and a follow up investigation is initiated, or if an investigation has emanated qua the accusations levelled against the person appearing or surrendering or being brought before the Magistrate, the Magistrate can in exercise of the powers conferred on him by Section 167(2) keep that offender or person under judicial custody in case the Magistrate is not inclined to admit that offender or person to bail.

57. The above deliberation leads to a derivation that to invoke Section 167(1), it is not an indispensable pre-requisite condition that in all circumstances, the arrest should have been effected only by a police officer and none else and that there must necessarily be records of entries of a case diary. Therefore, it necessarily follows that mere production of an arrestee before a competent Magistrate by an authorised officer or an officer empowered to arrest (notwithstanding the fact that he is not a police officer in its stricto sensu) on a reasonable belief that the arrestee "has been guilty of an offence punishable" under the provisions of the Special Act is sufficient for the Magistrate to take that

person into his custody on his being satisfied of the three preliminary conditions, namely, (1) the arresting officer is legally competent to make the arrest; (2) that the particulars of the offence or the accusation for which the person is arrested or other grounds for such arrest do exist and are well founded and (3) that the provisions of the Special Act in regard to the arrest of the persons and the production of the arrestee serve the purpose of Section 167(1) of the Code.

28. The above observations show that the production of the case diary is not always a condition precedent for the Magistrate in remanding the accused to custody and in appropriate circumstances exception can be there to such a situation.

29. In the present context the IV Additional Munsif Magistrate remanding the petitioner for 15 days jail custody was seized of a case for which he had no jurisdiction to try the offence and under the provisions of the Code, the petitioner was to be produced before the court of competent jurisdiction to take cognizance of the matter. At the cost of repetition, it is being stated that in such a situation the Magistrate had no authority to release the petitioner and assuming for argument sake that there was any illegality in passing the remand order, the said illegality is of no consequence in the present matter.

30. The petitioner has filed the present writ petition on 18-5-1993. In the writ petition, the petitioner did not file the order of remand, which has been passed against the petitioner on 28-4-93. The petitioner has mis-represented to this Court that he is under detention in pursuance of the order dated 15-4-1993. However, since it is a habeas corpus matter, we are not rejecting the petitioner's petition on the aforesaid ground, as in case of habeas corpus petition, it is an obligation on the State Government to justify that the petitioner is under detention in accordance with law. However, the question for consideration is as to what is the relevant date for determining the validity of the detention of the petitioner.

31. In Kanu Sanyal Vs. District Magistrate, Darjeeling and Others, it has been held: (Para 3)

But, for the purpose of the present case, it is immaterial which of these three views is accepted as correct, for it is clear that, which ever be the correct view, the earliest date with reference to which the legality of detention may be examined is the date of filing of the application for habeas corpus and the Court is not, to quote the words of Mr. Justice Dua in Col. Dr. B. Ramachandra Rao Vs. The State of Orissa and Others, "concerned with a date prior to the initiation of the proceedings for a writ of habeas corpus....

...Even if we assume that grounds A and B are well founded and there was infirmity in the detention of the petitioner in the District Jail, Darjeeling, that cannot invalidate the subsequent detention of the petitioner in the Central Jail, Vizakhapatnam." The legality of the detention of the petitioner in the Central Jail, Vizakhapatnam would have to be judged on its own merits....

32. A Full Bench of this Court in *Surjeet Singh v. State of U.P.* LXIX 1984 ACC 72 : 1984 All LJ 375 at Pp. 378-79, held that the court is competent to remand an accused to custody u/s 309(2) Cr. P.C. even if he is in illegal imprisonment. It can thus rectify its mistake and transform his illegal imprisonment into legal imprisonment.

33. In the present case the Special Judge under U. P. Gangsters Act has power to take cognizance on the first information report alone, as such, remanding the petitioner by its order dated 28-4-1993, the Special Judge was exercising the power of the court, as such, was competent to cure the illegality, if any, in detaining the petitioner under custody by remand order passed on 15-4-1993.

34. In view of above, assuming that there was any illegality in the remand order dated 15-4-93, no fault can be found with a valid remand order passed on 28-4-93 against the petitioner. Thus we are of the view that on the date of the filing of the writ petition, the petitioner was in custody in pursuance of valid remand order, as the order of remand dated 28-4-93 was passed by the Special Judge competent to take cognizance of the offence under U. P. Gangsters Act.

35. Considering the question of the validity of Section 344 Cr. PC (old) on the ground that since there are no guidelines provided in the Act, the provisions are ultra vires. The Hon'ble Supreme Court in *A. Lakshmanarao Vs. Judicial Magistrate, First Class, Parvatipuram and Others*,

When a case is postponed or adjourned and the accused is in custody the court has to exercise its judicial discretion whether or not to continue him in custody by making a remand order. The court is neither bound to make an order of remand nor is it bound to release the accused person. The period of remand is in no case to exceed 15 days at a time. The discretion to make a suitable order is to be exercised judicially keeping in view all the facts and circumstances of the case including the nature of the charge, the gravity of the alleged offence, the area of investigation, the antecedents of the accused and all other relevant factors which may appropriately help the court in determining whether to keep the accused in custody or to release him on bail. The court has to ensure the presence of the accused and a just, fair and smooth inquiry and trial of the offence charged. The order of remand is thus subject to judicial discretion and the order is also subject to review by the superior courts in accordance with law. The power conferred being judicial the absence of an express, precise standard for determination of the question would not render the Section unconstitutional. Detention pursuant to an order of remand which appropriately falls within the terms of Section 344 is accordingly not open to challenge in habeas corpus.

36. In the present case, the Special Judge has remanded the petitioner to jail custody on being satisfied that the petitioner's detention in Jail custody is necessary. The order of detention has been passed in accordance with the provisions of the "Code" and in accordance with the provision of the "Act". Such an order of remand is not open to challenge in habeas corpus petition.

37. In the end, we also wish to mention that in habeas corpus petition No. 9061 of 1994 Bal Mukund Jaiswal v. Superintendent Varanasi Jail and Anr. delivered on 30-8-94, we have referred the following question to larger Bench:

Where an accused person is under judicial custody on the basis of valid remand order passed u/s 209 or 309 Cr. PC by the Magistrate pending committal proceedings or trial, should he be set at liberty by issuing a writ of Habeas Corpus on the ground that this initial detention was violative of Constitutional guarantee on enshrined in Articles 21 and 22 of the Constitution of India?

38. However, so far as the present matter is concerned, it is not a case where the initial detention of the petitioner was violative of Articles 21 and 22 of the Constitution of India, as such, the case has no application in the present matter. We are accordingly of the view that the second contention of the counsel for the petitioner has also no substance.

39. The writ petition is accordingly dismissed.

40. By an interim order of this Court dated 4-6-1993, it has been directed that petitioner be released on bail on furnishing personal bond and two sureties in the like amount to the satisfaction of Special Judge (Gangsters Act) Gorakhpur. In view of the fact that the habeas corpus petition has been dismissed, the aforesaid interim order is vacated. The petitioner will present himself before the court of Special Judge (Gangsters Act), Gorakhpur in case Crime No. 86/1993 u/s 3(1) of the U. P. Gangsters and Anti Social Activities (Prevention) Act, P. S. Didarganj, district, Azamgarh. In case the petitioner fails to present himself within a period of two weeks from today, the Special Judge (Gangsters Act) Gorakhpur will take appropriate steps ensuring the petitioner's arrest in accordance with law in the aforesaid case. The learned Additional Government Advocate will ensure that the copy of judgment reaches the Special Judge (Gangsters Act) Gorakhpur within a week from today. The Registrar of this Court is also directed to ensure that the copy of the judgment reaches the Special Judge (Gangsters Act), Gorakhpur within a week from today. The judgment may be sent by special messenger.

41. In the end we clarify that the dismissal of the present habeas corpus petition will not have any effect on the right of the petitioner to move bail application before the appropriate court and the same will be dealt with in accordance with law.