ITEM NO.5 COURT NO.7 SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition (Criminal) No.452/2024

SIRAJ AHMAD KHAN & ANR. Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ANR. Respondent(s)

[PART HEARD BY: HON'BLE MR. JUSTICE J.B. PARDIWALA AND HON'BLE MR. JUSTICE K.V. VISWANATHAN]

(IA No. 214304/2025 - EXEMPTION FROM FILING O.T.,IA No. 214076/2025 - EXEMPTION FROM FILING O.T., IA No. 211876/2025 - EXEMPTION FROM FILING O.T., IA No. 310657/2025 - EXEMPTION FROM FILING O.T.,IA No. 234449/2025 - EXEMPTION FROM FILING O.T., IA No. 214327/2025 - EXEMPTION FROM FILING O.T., IA No. 205074/2025 - GRANT OF INTERIM RELIEF, IA No. 234448/2025 - INTERVENTION APPLICATION, IA No. 211872/2025 – INTERVENTION/IMPLEADMENT, IA No. 214326/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 214075/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES,IA No. 205077/2025 - STAY APPLICATION

WITH
W.P.(Crl.) No. 128/2025 (X)
(FOR STAY APPLICATION ON IA 76648/2025, FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 168109/2025 FOR EXEMPTION FROM FILING O.T. ON IA 168110/2025 FOR EXEMPTION FROM FILING O.T. ON IA 214622/2025 IA No. 214622/2025 - EXEMPTION FROM FILING O.T. IA No. 168110/2025 - EXEMPTION FROM FILING O.T. IA No. 168109/2025 - PERMISSION TO FILE ADDITIONALDOCUMENTS/FACTS/ANNEXURES IA No. 76648/2025 - STAY APPLICATION

W.P.(Crl.) No. 183/2025 (X)

FOR ADMISSION

Date : 22-01-2026 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :Mr. Amit Anand Tiwari, Sr. Adv.
Mr. Mohd Faris, Adv.
Mr. Mohd Sufiyan, Adv.
Mr. Mohd Yawar, Adv.
Mr. Mohd Ashraf, Adv.
Ms. Devyani Gupta, Adv.
Ms. Tanvi Anand, Adv.
Mr. Arjun Kumar, Adv.
Mr. Manish Kumar Gupta, AOR

Mr. Siddhartha Dave, Sr. Adv.

Mr. Amit Kumar, Sr. Adv.
Mr. Aditya Shanker Pandey, Adv.
Mr. Kunal Shah, Adv.
Ms. Yoothica Pallavi, AOR

Mr. Sanjai Kumar Pathak, AOR
Mrs. Shashi Pathak, Adv.
Mr. Arvind Kumar Tripathi, Adv.
Mr. Robin Kumar, Adv.
Ms. Shweta Jayshankar Dwivedi, Adv.
Ms. Smriti Singh, Adv.

For Respondent(s) :Mr. Ratnakar Dash, Sr. Adv.
Mr. Shashank Shekhar Singh, AOR
Mr. Abhinav Singh, Adv.

Mr. KM Nataraj, A.S.G.
Mr. Sharan Dev Singh Thakur, Sr. A.A.G.
Ms. Ruchira Goel, AOR
Ms. Indira Bhakar, Adv.
Ms. Ritika Rao, Adv.
Mr. Sharanya, Adv.

Mr. Vinay Navare, Sr. Adv.
Mr. Arpit Rai, Adv.
Ms. Pooja Sarwal, Adv.
Mr. Prabhsharan Singh Mohi, Adv.

Mr. Aviral Kashyap, AOR

Mr. Fuzail Ahmad Ayyubi, AOR
Mr. Ibad Mushtaq, Adv.
Ms. Akanksha Rai, Adv.
Ms. Gurneet Kaur, Adv.
Mr. Hasan Raza Khan, Adv.
Ms. Madiha Pagarkar, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. In this batch of Writ Petitions, the challenge is to the Constitutional validity of Sections 3, 12 and 14-17 of the Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, 1986, respectively (for short "the Gangsters Act") and Rules 16(3), 22, 35, 37(3) and 40 of The Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Rules, 2021, respectively (for short "the Rules").

2. We started hearing these matters today, and the very first contention that came to be canvassed by Mr. Amit Anand Tiwari, Mr. Siddhartha Dave, Mr. Vinay Navare, Mr.Amit Kumar and Mr. Sanjai Kumar Pathak, the learned senior counsel appearing for the petitioners, is that the Gangsters Act, i.e., the State Act is repugnant to Section 111 of the Bhartiya Nyaya Sanhita, 2023 (for short "the BNS, 2023") and hence invalid.

3. Of course, there are other submissions also the learned counsel appearing for the petitioners would like to canvass as

regards the provisions of the State Act being violative of Articles 14, 19, 21 and 300-A, respectively of the Constitution of India.

4. Mr. K.M. Nataraj, the learned A.S.G. and Ms. Ruchira Goel, the learned counsel appearing for the State, submitted that insofar as the contention about repugnancy is concerned, they should be given some time to study this issue and revert on the next date of hearing.

5. Today in the course of hearing Mr. Amit Tiwari, the learned counsel appearing for one of the petitioners, submitted that Section 111 of the BNS, 2023 and the Gangsters Act occupy the same field. He would submit that the Parliament, by way of Section 111 of the BNS, 2023, could be said to have intended to lay down a comprehensive and exhaustive code in respect of the subject matter of organised crime/group based criminal activity, thereby replacing the Gangsters Act.

6. He also submitted that there is a direct irreconcilable conflict between Section 111 of BNS, 2023 and the Gangsters Act, respectively.

7. Mr.Tiwari, the learned senior counsel, placed strong reliance on the decision of this Court rendered in the case of "*Forum for People's Collective Efforts (FPCE) and Another v.*

State of West Bengal and Another” **reported in (2021) 8 SCC 599, wherein a two judge bench has laid down three tests for determining repugnancy between the State Act and the Central piece of legislation.**

8. Our attention was drawn, more particularly, to two paras i.e., 132.3 and 133, respectively of the said decision.

9. In view of the aforesaid, we grant three weeks’ time to the State to respond to this contention of repugnancy, more particularly, keeping in mind the three tests which have been laid down by this Court in *Forum for People's Collective Efforts* (supra).

10. Mr. Siddhartha Dave, the learned senior counsel is also appearing in one of the matters. However, the submission of Mr. Dave is with regard to the conflict between the State Act and BNS, 2023. According to him, he wants to develop the argument relying on the first test, which has been propounded by this Court in *Forum for People's Collective Efforts* (supra).

11. Mr. Dave shall file his written submissions on this issue of repugnancy, including other issues, and serve one copy of the submission to Mr. K.M. Natraj, the learned ASG and Ms. Ruchira Goel, the learned counsel, at the earliest.

12. Mr. Navare, the learned senior counsel appearing for the intervenor, brought to our notice that he has filed one interim application bearing No.23448/2025. Let this IA be tagged along with the other petitions and this IA shall also be notified on 11.03.2026.

13. Mr. Navare, the learned senior counsel in the last brought to our notice that his client has already preferred an application before the High Court of Allahabad seeking anticipatory bail. However, the said application is not coming up for hearing.

14. Since there is a strong apprehension at the end of the applicant-intervenor that he is likely to be harassed by police, we request the High Court to give priority to this application and see to it that the same is decided on its own merits in accordance with law at the earliest.

15. Let this matter come up on 11.03.2026 on the top of the Board as Part Heard.

(CHANDRESH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)