



Judgment Reserved on: 08.04.2026
Judgment Pronounced on:20.05.2026

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Appeal No.383 of 2024

Arun KumarAppellant
Vs.
State of UttarakhandRespondent

with
Criminal Appeal No. 380 of 2024

OmvirAppellant
Vs.
State of UttarakhandRespondent

with
Criminal Appeal No. 381 of 2024

Naresh KumarAppellant
Vs.
State of UttarakhandRespondent

with
Criminal Appeal No. 382 of 2024

Smt. AnjanaAppellant
Vs.
State of UttarakhandRespondent

with
Criminal Appeal No. 532 of 2024

Smt. AnjanaAppellant
Vs.
State of UttarakhandRespondent

Presence:

Mr. D.K. Sharma, learned Senior Advocate, assisted by Mr. Shubhang Dobhal, Mr Bharat Chaudhary, learned counsel for the Appellants.



Mr. Vipul Painuly, learned AGA with Mr. Dinesh Chauhan, learned AGA, for the State of Uttarakhand.

Hon’ble Ashish Naithani, J.

1. These connected Criminal Appeals, being CRLA Nos. 380 of 2024, 381 of 2024, 382 of 2024, 383 of 2024 and 532 of 2024, have been preferred by the respective Appellants under Section 18 of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, read with Section 386 of the Code of Criminal Procedure, assailing the respective orders passed by the Learned Special Judge, Gangsters Act/II Additional District and Sessions Judge, Haridwar, whereby the release applications preferred by the Appellants came to be rejected.
2. Since all the aforesaid appeals arise out of connected proceedings under the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 and involve common questions of fact and law, they were heard together and are being decided by this common judgment. For the sake of convenience, Criminal Appeal No. 383 of 2024, *Arun Kumar vs. State of Uttarakhand*, is treated as the leading case.
3. The record reveals that proceedings under the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 were initiated against one Yashpal Tomar and his alleged associates, alleging the existence of an organised gang engaged in unlawful activities, including acquisition of movable and immovable properties through illegal means.
4. In pursuance thereof, various properties, both movable and immovable, were identified by the authorities and subjected to attachment on the allegation that the same constituted properties acquired as a result of the activities of the said gang.



5. It is not in dispute that the properties so attached include assets standing in the names of the present Appellants, comprising, inter alia, parcels of land and certain movable properties such as motor vehicles.
6. The properties under attachment, as reflected from the record of the respective appeals, include immovable properties in the nature of land parcels situated, inter alia, in Village Chithera, District Gautam Buddh Nagar (Uttar Pradesh), as well as certain movable properties including motor vehicles. The movable assets include vehicles such as Toyota Fortuner and Innova Crysta, standing in the names of the respective Appellants. The said properties are alleged by the State to have been acquired as a result of the activities of the gang, whereas the Appellants claim independent ownership thereof.
7. Aggrieved by such attachment, the Appellants moved separate applications before the Learned Special Judge, Gangsters Act, seeking release of their respective properties.
8. In the said applications, the Appellants asserted independent ownership over the properties and contended that the same were not liable to be treated as properties acquired from the alleged activities of the gang.
9. Aggrieved by the respective impugned orders, the present appeals have been preferred before this Court.
10. Heard learned counsel for the parties and perused the records.
11. Learned Senior Counsel for the Appellants submits that the impugned order is unsustainable, as no cogent material has been brought on record to establish any nexus between the attached properties and the alleged activities of the gang.



12. It is contended that the properties stand in the names of the Appellants and have been acquired through lawful means, including registered sale deeds, bank transactions, mutation entries, and, in certain cases, inheritance. It is submitted that both immovable properties and movable assets, such as vehicles, are supported by documentary material placed before the Learned Trial Court.
13. Learned Counsel submits that the Learned Trial Court has failed to properly appreciate the material placed on record and has erred in proceeding without the State first establishing a foundational nexus between the properties and any alleged criminal activity.
14. It is further contended that no specific material has been placed to show that the properties were acquired through coercion or unlawful means, nor has any individual victim or complaint been identified in relation to the alleged transactions.
15. Learned Counsel submits that the case against the Appellants rests primarily on their alleged association with the principal accused, which by itself cannot justify attachment of property in the absence of independent evidence.
16. On these submissions, it is prayed that the impugned order be set aside.
17. Learned Deputy Advocate General for the State supports the impugned order and submits that the same has been passed after due consideration of the material on record.
18. It is contended that the proceedings arise out of action taken against an organised gang led by Yashpal Tomar, which was engaged in unlawful acquisition of properties through illegal means.



19. Learned Counsel submits that the Appellants are closely associated with the said gang and are beneficiaries of its activities, and the properties standing in their names have been acquired as a result thereof.
20. It is further submitted that the documents relied upon by the Appellants do not establish lawful acquisition and are insufficient to discharge the burden cast upon them, particularly in light of the surrounding circumstances indicating non-genuine transactions.
21. Learned State Counsel contends that absence of formal complaints does not weaken the prosecution case in matters involving organised crime, and that the material on record establishes a sufficient nexus between the properties and the gang activities.
22. On these submissions, it is prayed that the appeals be dismissed.
23. This court observes that the present appeals arise out of proceedings under the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, wherein properties standing in the names of the Appellants have been attached on the allegation that the same constitute properties acquired as a result of the activities of an organised gang allegedly led by Yashpal Tomar. The limited question that arises for consideration is whether the material on record establishes a legally sustainable nexus between the properties in question and the alleged activities of the gang.
24. While exercising appellate jurisdiction under Section 18 of the Act, this Court is required to examine whether the statutory requirements necessary for sustaining attachment stand satisfied on the basis of material available on record. Since attachment of property



directly affects proprietary rights protected under Article 300A of the Constitution of India, the findings recorded by the competent authority and affirmed by the Learned Special Judge must disclose a rational nexus between the property sought to be attached and the alleged criminal activities.

25. At the outset, it is necessary to observe that attachment of property under the Gangsters Act, though preventive in nature, has serious civil consequences, inasmuch as it results in deprivation of property. Such deprivation, being subject to constitutional protection under Article 300A of the Constitution of India, must be founded on cogent material demonstrating that the property sought to be attached is, in fact, the product of criminal activity attributable to the gang.
26. It is well settled that mere allegation of involvement in organised crime, or association with a person alleged to be a gang leader, cannot by itself justify attachment of property. The statute requires that the property must be shown to have been acquired as a result of criminal activity, and therefore, a clear and discernible nexus between the property and the alleged offence is a *sine qua non*.
27. Upon perusal of the record, this Court finds that the case of the State, insofar as the present Appellants are concerned, rests primarily on a general allegation that the gang was engaged in unlawful acquisition of properties through coercive means. However, no specific material has been placed on record to demonstrate, qua the individual properties under attachment, that the same were acquired through coercion, threat, or any other unlawful activity.



28. The mere fact that a person may be related to, associated with, or acquainted with an alleged gang member cannot, by itself, justify attachment of property standing in such person's name. The statute contemplates attachment of properties acquired as a result of criminal activities, and therefore the focus of judicial scrutiny must remain upon the source, acquisition, and nexus of the property itself, and not merely upon the alleged relationship between the parties.
29. Significantly, the State has not been able to identify any specific victim in respect of the properties in question, nor has any complaint been brought on record from any person alleging that such property was transferred under coercion or undue influence. The absence of such foundational material assumes importance, particularly when the attachment is sought to be sustained on the premise of illegal acquisition.
30. On the other hand, the Appellants have placed on record documentary material indicating that the properties stand in their names and have been acquired through transactions evidenced by registered instruments, banking channels, or entries in official records. While the evidentiary value of such documents may ultimately be subject to proof in appropriate proceedings, they nevertheless constitute prima facie material indicating lawful acquisition.
31. Attachment proceedings involving multiple properties and multiple claimants necessarily require an individualized examination qua each property and each claimant. A generalized conclusion founded upon the overall allegations against the alleged gang, without examining the acquisition history and supporting material relating to



each specific property, would not satisfy the requirement of fairness inherent in proceedings having serious civil consequences

32. The Learned Trial Court, however, has proceeded to discard the defence material without a detailed examination, and has primarily relied upon the general allegations against the gang. Such an approach, in the considered view of this Court, does not satisfy the requirement of establishing a property-specific nexus, which is essential for sustaining an order of attachment under the Act.
33. It is also noteworthy that the findings recorded by the Learned Trial Court do not advert to the individual nature of each property or the specific circumstances under which the same came to be acquired by the respective Appellants. The impugned order, thus, proceeds in a generalized manner, without undertaking a property-wise analysis.
34. This Court is conscious of the fact that proceedings under the Gangsters Act are intended to curb organised crime; however, the same cannot be permitted to operate in a manner so as to justify attachment of property in the absence of specific and cogent material. Suspicion, however strong, cannot take the place of proof, particularly when the consequence is deprivation of property.
35. In the absence of material establishing that the properties in question are the proceeds of criminal activity, and in view of the prima facie documentary evidence indicating lawful acquisition, this Court is of the considered opinion that the Appellants have made out a case for release of the attached properties.
36. Accordingly, the findings recorded by the Learned Trial Court to the contrary cannot be sustained, as they suffer from lack of proper



appreciation of material and failure to apply the correct legal standard with respect to nexus between the property and the alleged criminal activity.

ORDER

This Court is presently concerned only with the legality of attachment insofar as it relates to the properties claimed by the present Appellants.

Criminal Appeal No. 383 of 2024 is **allowed**. The order dated 26.04.2024 passed in Miscellaneous Application No. 07 of 2023 by the Learned Special Judge, Gangsters Act/IIInd Additional District and Sessions Judge, Haridwar, is hereby set aside. Consequently, the attachment order dated 13.04.2022 passed by the District Magistrate, Haridwar in Case No. 01 of 2022 shall stand set aside only qua Toyota Fortuner bearing Registration No. DL 14CE 0199.

Criminal Appeal No. 382 of 2024 is **allowed**. The order dated 09.01.2024 passed in Miscellaneous Application No. 16 of 2023 is hereby set aside. Consequently, the attachment order dated 13.04.2022 shall stand set aside only qua Innova Crysta 2.8Z bearing Registration No. DL 14CD 7745.

Criminal Appeal No. 381 of 2024 is **allowed**. The order dated 26.04.2024 passed in Miscellaneous Application No. 06 of 2024 is hereby set aside. Consequently, the attachment order dated 13.04.2022 shall stand set aside only qua properties described at Serial Nos. 15 and 16 of the attachment order.



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Criminal Appeal No. 380 of 2024 is **allowed**. The order dated 07.05.2024 passed in Miscellaneous Application No. 09 of 2024 is hereby set aside. Consequently, the attachment order dated 13.04.2022 shall stand set aside only qua property described at Serial Nos. 17 of the attachment order.

Criminal Appeal No. 532 of 2024 is **allowed**. The order dated 23.07.2024 passed in Miscellaneous Application No. 15 of 2024 is hereby set aside. Consequently, the attachment order dated 13.04.2022 shall stand set aside only qua properties described at Serial Nos. 1 to 10 of the attachment order.

It is clarified that the observations made herein are confined solely to the legality of the attachment orders impugned in the present appeals. Nothing contained in this judgment shall be construed as an expression on the merits of any pending criminal proceedings or investigation against any accused person, nor shall this judgment preclude the competent authority from proceeding in accordance with law upon emergence of fresh and legally admissible material.

(Ashish Naithani, J.)

Dated:20.05.2026

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