

A.F.R.



2026:AHC:82779-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 128 of 2026**

Amit Singh

.....Petitioner(s)

Versus

Union of India and 5 others

.....Respondent(s)

Counsel for Petitioner(s) : Ajay Mishra, Shri Krishna Mishra
Counsel for Respondent(s) : A.S.G.I., G.A., Shiv Kumar Pal

Court No. - 44

**HON'BLE SIDDHARTH, J.
HON'BLE VINAI KUMAR DWIVEDI, J.**

1. Heard Shri Vinay Saran, learned Senior Counsel assisted by Sri Ajay Mishra and Shri Piyush Panday learned counsel for the petitioner; Shri S.K. Pal, learned Deputy Solicitor General of India assisted by Sri Prem Shanker Prasad appearing for respondent nos. 1 to 4 and perused the material on record.

2. This Habeas Corpus Writ Petition has been filed praying for following reliefs:-

(i) Issue a writ of habeas corpus commanding all the respondents to release the petitioner from their illegal detention in pursuance of the detention order dated

8.8.2025 passed under Section 3(1) of P.I.T.N.D.P.S. Act passed by respondent no.3 and order dated 6.11.2025 passed by respondent no.4 and to set petitioner at liberty forthwith and may further be pleased to quash the impugned order dated 8.8.2025 passed by respondent no.3 as well as confirmation order dated 6.11.2025 passed by respondent no.4.

(ii) To issue a writ or any other such order or direction as may be deemed just fit and proper under the facts and circumstances of the case.

(iii) Award the cost of the writ petition.

3. Learned Senior Counsel for the petitioner has made following submissions:-

(I) While passing the detention order dated 08.08.2025, provisions of section 3 (3) of the Act has not been complied with which mandates that for the purpose of clause (5) of Article 22 of the Constitution of India, the communication to a person detained in pursuance to detention order of grounds on which the order has been made shall be made as soon as may be after detention, but ordinarily not later than 5 days and in exceptional circumstances and for reason to be recorded in writing not later than 15 days, from the date of detention.

(ii) The petitioner was not supplied with complete and legible set of relied upon documents along with the detention order itself which is a gross violation of the procedure itself.

(iii) The impugned order was primarily issued on two ill-founded assumptions that if enlarged on bail, the Detenu will abscond and vitiate the trial, and would again indulge in the same crime for monetary benefits, without relying upon any such fact or circumstance or document to substantiate such an ill-founded apprehension. The same

has been done solely with the motive of keeping the Detenu/Petitioner in unwarranted and uninterrupted custody away from the place where he is facing trial and delaying the trial, for reasons best known to the sponsoring Authority and detaining authority. It has been passed solely on unfounded apprehensions, without any cogent material based on stale grounds having no live proximity with the alleged prejudicial activity leading to no subjective satisfaction and application of mind by Detaining Authority thereby violating the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

(iv) 5 months period of incarceration of detention period is passed already.

(v) The impugned orders are arbitrary, mechanical, and suffer from a fatal flaw between the alleged prejudicial activities relied upon by the detaining authority. The alleged prejudicial activities primarily stem from two pending under trial cases: (i) the 2013 DRI case (Cr. No. 338/XVIII/2013/GI), which dates back over 12 years, and (ii) the October 2024 NCB case (Cr. No. VIII/35/DZU/2024), in relation to which the petitioner was arrested on 26.10.2024. Despite the petitioner being in continuous judicial custody since 26.10.2024, in the 2024 case, the detention order was passed only on 08.08.2025-after an unexplained delay of approximately 10 months from the date of the alleged offence in October 2024 from the date of arrest.

4. Learned counsel for the respondents have vehemently opposed the petition on the basis of the material brought on record by way of counter affidavits filed before this Court.

5. Since the detention order dated 8.8.2025 passed by respondent no.3, Joint Secretary, (P.I.T.N.D.P.S.), Government of India, Ministry of Finance, Department of Revenue, (P.I.T.N.D.P.S. Division), New Delhi and order dated 6.11.2025 passed by respondent no.4, Deputy Secretary, (P.I.T.N.D.P.S.), Government of India, Ministry of Finance, Department of Revenue, New Delhi, are sought to be quashed in this petition, they are required to be considered and for ready reference, they are hereby quoted below:-

I. Order Dated 8.8.2025:-

SECRET

**F-No. U-11011/37/2025-PITNDPS
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
(PITNDPS UNIT)**

Room No. 156B, 1st Floor
North Block, New Delhi
Dated: 8th August, 2025

ORDER

Whereas, I, Anupam Prakash, Joint Secretary to the Government of India, specially empowered under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, (as amended), am satisfied with respect to the person known as **Amit Singh S/o Omvir Singh** that with a view to preventing him from engaging in-illicit trafficking of narcotic drugs & psychotropic substance, in future, it is necessary to make the following order:

Now, therefore, in exercise of the powers conferred by Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act,

1988, (as amended), I direct that the said **Amit Singh S/o Omvir Singh, R/o G 45 Lajpat Nagar Part I, New Delhi 110024** be detained and kept in **Central Prison, Puzhal, Chennai**.

Sd/-

8.8.2025

(Anupam Prakash)

Joint Secretary to the Government of India

**Amit Singh S/o Omvir Singh,
R/o G 45 Lajpat Nagar Part I,
New Delhi 110024.**

ii. Order dated 6.11.2025:-

F. No. U-11012/25/2025-PITNDPS
Government of India
Ministry of Finance
Department of Revenue
PITNDPS Division

2 Floor Room No 202. Jeevan
Tara Building. Parliament
Street. New Delhi
Date: 06 November 2025

ORDER

WHEREAS, an Order No. U-11011/37/2025-PITNDPS dated 08.08 2025 was issued by the Detaining Authority I.e. Joint Secretary to the Government of India, Department of Revenue Ministry of Finance under section 3(1) of the Prevention of Illicit Traffic in Narcotics Drugs and Psychotropic Substances Act, 1988 in respect of Amit Singh S/o Sh. Omvir Singh R/O G45, Lajpat Nagar, Part I New Delhi-110024.

AND WHEREAS, the said Order was executed upon Amit Singh S/o Sh. Omvir Singh on 05.09.2025 who is currently lodged in Central Prison, Puzhal, Chennai.

AND WHEREAS, the matter of Amit Singh S/o Sh. Omvir Singh was placed before the State Advisory Board (PITNDPS), Tamil Nadu, which is of the Opinion, that sufficient cause is made out for detention of the detenu Amit Singh S/o Sh. Omvir Singh.

AND WHEREAS the Central Government has considered the opinion of the State Advisory Board (PITNDPS), Tamil Nadu.

NOW THEREFORE, in exercise of the powers contered by Section 9(f) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, the Central Government hereby confirms the aforesaid Detention Order dated

08.08.2025 and further directs under Section 11 of the said Act that Amit Singh S/O Sh. Omvir Singh be detained for a period of one year from the date of his detention i.e. 05.09.2025.

Sd/-

6/11/2025

(Kishor Bandyopadhyay)

Deputy Secretary to the Government of India

E-mail: ds.pitndps@gov.in

To.

Amit Singh S/o Sh Omvir Singh, a PITNDPS detenu
Through: The Superintendent, District Jail, Gautam Buddha Nagar.

Copy to:-

1. The Superintendent, District Jail, Gautam Buddha Nagar with the request to serve the order on the detenu and return a dated acknowledgment to the undersigned. An extra copy of the Order is enclosed for this purpose.
2. The Superintendent, Central Prison. Puzhal, Chennai
- 3 The Deputy Director (Ops), Narcotics Control Bureau, Deihi Headquarter.
4. The Competent Authority (SAFEMA), Department of Revenue, Ministry of Finance, Delhi. A copy of Grounds of Detention is also enclosed.
- 5 The Sub-Assistant Registrar. COFEPOSA Section, High Court. Madras-600104

Sd/-

6/11/2025

(Kishor Bandyopadhyay)

Deputy Secretary to the Government of India

E-mail: ds.pitndps@gov.in

5. The Apex Court in the case of ***Mortuza Hussain Choudhary Vs. State of Nagaland and others, 2025 SCC Online SC 502*** has considered the scheme of P.I.T.N.D.P.S. Act from paragraph nos. 7 to 10 quoted herein below:-

“7. It would be apposite at this stage to take note of the statutory regime of the Act of 1988. Section 3(1) thereof empowers the authorized officers, either of the Central Government or of a State Government, to detain any person with a view to prevent him/her from engaging in illicit traffic in narcotic drugs and psychotropic substances. Section 3(2) requires a State

Government that passes such a detention order to forward a report of the same to the Central Government within ten days. Section 3(3) mandates communication of the grounds on which the detention order has been made to the detenu as soon as may be after the detention, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days from the date of detention. The sub-section records that this requirement is for the purposes of Article 22(5) of the Constitution, which mandates such communication as soon as may be. Section 6 of the Act of 1988 provides that the grounds of detention are severable and an order of detention shall not be deemed to be invalid or inoperative merely because one or some of the grounds is either found to be vague, nonexistent, irrelevant or not connected with such persons or is invalid for any other reason. Section 6 specifically records that where a person has been detained pursuant to an order of detention under Section 3(1), which has been made on two or more grounds, such order shall be deemed to have been made separately on each ground. This indicates that the order of detention must be accompanied by the 'grounds of detention' made by the detaining authority itself. Section 11 of the Act of 1988 speaks of the maximum period of detention and states that the same may be extended up to 2 (two) years from the date of detention.

8. *We may now note precedential law on the subject. In **Kamarunnissa v. Union of India, (1991) 1 SCC 128** the detenus were already in judicial custody at the time the orders of preventive detention were passed against them. This Court affirmed that detention orders could be validly passed against detenus who were in jail, provided the officers passing the orders were alive to the factum of the detenus being in custody and there was material on record to justify the conclusion that they would indulge in similar activities, if set at liberty. Reference was made to the earlier decision of this Court in **Binod Singh v. District Magistrate, Dhanbad, Bihar, (1986) 4 SCC 416** wherein it was held that there must be cogent material before the officer passing the detention order to infer that the detenu was likely to be released on bail and such an inference must be drawn from the material on record and must not be the ipse dixit of the officer passing such order. This Court, therefore, emphasized that before passing the detention order in respect of a person who is in jail, before passing the detention order in respect of a person who is in jail the concerned authority must satisfy himself and such satisfaction must be reached on the basis of cogent material that there is a real possibility of the detenu being released on bail and, further, if released on bail, the material*

on record must reveal that he/she would indulge in prejudicial activity again, if not detained.

9. *On similar lines, in **Rekha v. State of Tamil Nadu, (2011) 5 SCC 244**, a 3-Judge Bench of this Court affirmed that, where a detention order is passed against a person already in jail, there should be a real possibility of the release of that person on bail, that is, he must have moved a bail application which is pending. It was observed that if no bail application is pending it logically followed that there is no likelihood of the person in jail being released on bail. The Bench, however, pointed out that the exception to this Rule would be where a co-accused, whose case stood on the same footing, was granted bail. The Bench cautioned that details in this regard have to be recorded, otherwise the statement would be mere ipse dixit and cannot be relied upon. The law laid down in *Rekha (supra)* was reiterated and followed in **Huidrom Konungjao Singh v. State of Manipur, (2012) 7 SCC 181**.*

10. *Earlier, in **Union of India v. Paul Manickam, (2003) 8 SCC 342**, this Court observed that, where detention orders are passed against persons who are already in jail, the detaining authority should apply its mind and show awareness in the grounds of detention of the chances of release of such persons on bail. It was observed that the detaining authority must be reasonably satisfied, on the basis of cogent material, that there is a likelihood of the detenu's release and in view of his/her antecedent activities, which are proximate in point of time, he/she must be detained in order to prevent him/her from indulging in such prejudicial activities. It was held that an order of detention would be valid in such circumstances only if the authority passing the order is aware of the fact that the detenu is actually in custody; the authority has a reason to believe, on the basis of reliable material, that there is a real possibility of the detenu being released on bail; and that, upon such release, he/she would, in all probability, indulge in prejudicial activities; and it is felt essential to detain him/her to prevent him/her from so doing. This principle was again reiterated and applied in **Union of India v. Dimple Happy Dhakad, (2019), 20 SCC 609**.*"

9. The Apex Court in the case of **Kamarunnisa Vs. Union of India (supra)** has held that the detention orders can be passed against detenues in jail provided the officers passing such orders can justify the detention

with reference to the material on record and can also justify that the detenues will indulge in similar activities, if set at liberty. In this case, we do not find any such 'satisfaction' recorded by the detaining officers. The ratio of the judgments of the Apex Court in the cases of *Binod Singh Vs. District Magistrate (supra)* and *Rekha Vs. Tamil Nadu (supra)* are to the same effect. The Apex Court in the case of *Union of India Vs. Paul Manickam (supra)* has also held that the detaining authority should apply its mind and show awareness to the "grounds of detention". The detaining authority must be reasonably satisfied on the basis of cogent material, that there is likelihood of detenue of indulging in such activities on being released from jail. The "reasons to believe" should be based on reliable material and real possibility of detenue misusing his liberty in case of release from jail. The impugned orders are self-explanatory and clearly show that they have been passed without application of mind and without reference to any of the 'grounds of detention' of the petitioner. Such a state of affairs is deplorable and needs to be redressed at the earliest by the Union Government in the larger interest of the criminal justice delivery system.

10. If we consider the aforesaid impugned orders passed by respondent nos. 3 & 4 in the light of the settled legal as laid down by the Apex Court in the case of *Mortuza Hussain Choudhary (supra)*, we find that the orders passed against the petitioner cannot be sustained as per the settled law. Respondent Nos. 3 & 4 have paid mere lip service to the mandatory requirements of law. They have mechanically mentioned that they are satisfied that petitioner is required to be detained so as to prevent him

from engaging in illicit trafficking of narcotic drugs and psychotropic substances. Such 'satisfaction' was required to have been spelt out after application of mind by reference to separate grounds of detention made by the detaining authority, which has not been done. None of the orders impugned show any application of mind and no "grounds of detention" have been recorded therein.

11. It is settled law that order passed by public servant should stand on its own legs. Any pleadings in support of impugned order cannot cure the defect in the order.

12. Therefore, the conduct of respondent nos. 3 & 4 is highly arbitrary and illegal. They have exercised their powers in violation of Articles 14, 21 and 22 of the Constitution of India. Despite being public servants, their conduct reflects scant respect for law of land the dereliction of duty on their part, which can be considered to be misconduct in service on their part, since they have failed to perform their duties in accordance with law.

13. We leave it open for the employer to take suitable action against respondent nos. 3 & 4, since dereliction of duty by them will ultimately benefit the detenu. We find that this state of affairs is continuing for long despite numbers of orders passed by the courts quashing such illegal and non-speaking orders passed by detaining authorities.

14. We have no option but to quash the impugned orders dated 8.8.2025 and 6.11.2025 passed by respondent nos. 3 and respondent no.4.

15. The petitioner is directed to be set at liberty forthwith.

16. The above noted petition is **allowed**.

(Vinai Kumar Dwivedi,J.) (Siddharth,J.)

April 15, 2026
Ruchi Agrahari