



2026:AHC:83732-DB

**Reserved**  
**AFR**

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**HABEAS CORPUS WRIT PETITION No. - 741 of 2025**

Sameer and another

.....Petitioner(s)

Versus

State of U.P. and 7 others

.....Respondent(s)

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Counsel for Petitioner(s)	: Brijesh Kumar Yadava, Narendra Kumar
Counsel for Respondent(s)	: Manish Pandey, G.A.

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**Court No. - 47**

**HON'BLE J.J. MUNIR, J.**  
**HON'BLE SANJIV KUMAR, J.**

**(Delivered by Hon'ble J.J. Munir, J.)**

1. This petition for a writ of *habeas corpus* has been preferred by Sameer through his father, Shamshad, against his detention ordered by the District Magistrate, Shamli, under Section 3(3) of the National Security Act, 1980, *vide* order dated 15.05.2025, and confirmed by the State Government *vide* order dated 12.06.2025 made under Section 12(1) of the Act last mentioned.

2. The facts, giving rise to this petition, would show that it all began with a police party, headed by Sub-Inspector Gyanendra Singh on routine duty to maintain law and order and serve processes etc. while passing through the jungle in Village Lavvadaudpur, Police Station Jhinjhana, District Shamli, coming across the remains of cows' progeny, lying in the field of one Sandeep son of Aval Singh on 15.03.2025, soon after 10.10 a.m. The police party, who came across the remains of cows' progeny, found 11 dismembered feet, four tails, parts of the head, besides parts of skin and a wooden block. The police team called

Veterinary Medical Officer, Dr. Imran Ansari over his mobile phone to identify the remains. The Veterinary Medical Officer reached the spot and identified the remains as ones of the cows progeny, regarding which he said he would make a separate report. The police team in the FIR, that they got registered with P.S. Jhinhana, said that the remains were found at the specified location, and that some unknown men had slaughtered the cows progeny, on the basis of which Crime No. 99 of 2025, under Section 3/8 of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (for short, 'the Act of 1955'), P.S. Jhinhana, District Shamli, was registered. It was also recorded in the FIR that the remains were secured by the Police and upon directions of the Veterinary Medical Officer, in order to prevent foul stench, besides disease from spreading, interred after digging up earth. The wooden block was marked and taken into custody.

3. It is next said in the FIR that Holi was around and the incident had led to unrest amongst the Hindu population, necessitating detailing of force to maintain peace. It was also said in the FIR that a memo of recovery was prepared on the spot and signed by members of the police party. In fact, it is the aforesaid memo, relating to recovery of remains of the cows progeny, that was registered as the *check* FIR, giving rise to the crime.

4. The grounds, upon which the impugned detention is founded, are indeed detailed and recount all happenings and circumstances, leading to the petitioner's incarceration. Since other men were involved in the crime, that led to the petitioner's detention, and they too were similarly detained, the grounds carry reference to those others as well. Therefore, it may not be relevant for us to refer to the entire gamut of facts that the grounds carry. We propose to refer to only so much of whatever is said in the grounds as is relevant to the petitioner's detention under the National Security Act, 1980 (for short, 'the NSA'). After a copious reference to the discovery of the offence by the police

team and whatever is said in the FIR, it is mentioned in the grounds that post registration of the crime, the Investigating Officer left for the place of occurrence, and upon reaching there, saw that at the field of Sandeep Kumar located in the jungle of Village Lavvadaudpur, a big crowd of people had congregated. Amongst them, members of the Hindu populace had frayed tempers, who were reasoned with and pacified.

**5.** The Investigating Officer then set about the task of finding out the identity and location of the offenders. The police informers were summoned for the purpose and necessary instructions issued to them. The Station House Officer, P.S. Jhinhana, upon learning of this happening, reached the spot, accompanied by members of his companion force. The S.H.O. again found a big crowd gathered at the place of occurrence and they were livid about the incident of cow slaughter. The crowd, that had now gathered, had representatives of various associations present, including Hindu organizations, such as the Rashtriya Bajrang Dal, the Pashchimi Uttar Pradesh Sanyukt Udyog Vyapar Mandal, the Shiv Sena Mandal Saharanpur Unit, the Akhil Bharatiya Pradhan Sangthan. Members of these organizations were shouting slogans and demanding the immediate arrest of the offenders responsible for the crime. This crowd blockaded the Jhinhana-Thana Bhawan Road, leading to a long queue of vehicles on both sides of the blockade. The passersby and the travellers were much troubled. This jamming of the road on account of the blockade lasted for long hours, in consequence of which public order in the area was torn asunder.

**6.** Upon receiving information, the Circle Officer, Kairana, also reached the spot/ place of occurrence, along with members of his companion force and attempted to pacify the enraged members of the crowd. In the meanwhile, information of this incident was relayed to the nearby police stations and additional forces from those stations, such as Thana Bhawan, Garhi Pukhta, Thana

Babri, arrived. They were detailed around the place of occurrence and the enangered villagers were assured about their own safety and that of their cattle. Police force had to camp at villages Naya Gaon, Dathaida, Gangarampur Khedki, Lavvadaudpur, Shamli-Shamla, Panthupura, Jijaula, Ballamajra, Toda, Khodsama and Laxmipura. The Police maintained surveillance in these villages, in order to ensure that the disturbed public order resulting from this incident could be restored.

7. The Investigating Officer on the 16<sup>th</sup> of March, 2025 learnt through a police informer that five men were involved in this incident of cow slaughter. They were Iqbal son of Rashid, Jaane Alam son of Sagir, Javed son of Islam, Wasim alias Gullu son of Salim, and Sameer son of Shamshad (the petitioner). All of them had together, according to the informer, committed the offence. By and by, the investigation proceeded and raids were made by the Police to interrogate men, whose names had surfaced in connection with the crime.

8. For a first, the Police went to the homes of Iqbal and Jaane Alam, one after the other, looking out for them, but they were not there. The relatives did not give any information as to their whereabouts. Next, the Police went to Javed's house, but he too was not found at home. His relatives did not give any information as to his whereabouts. On 16.03.2025, upon an informer's tip off that the offenders, responsible for the incident of cow slaughter, would be proceeding from Chausana to Mundet, carrying illicit weapons on them, and that they could be caught if a checking exercise was strictly undertaken, the Police went to the place of their reported movement. To shorten the narration of events, three of the men, said to be involved in the incident, were seen riding a motorcycle, and upon being challenged to stop, attempted to escape, accelerating the vehicle. They then turned aggressive, when it was apparent that they were surrounded by the police party, and opened fire. The policemen barely escaped unhurt and

in the return fire, some of the offenders were injured. They were overpowered and apprehended. The apprehended men disclosed their names as Javed son of Islam, Iqbal son of Rasheed and the third, who was caught after a chase, revealed his name as Raees son of Mumtaj. All of them had firearms on them, besides mobile phones, the details of which are not very relevant to the controversy involved here. All the three were arrested.

**9.** On 16.03.2025 at 23:12 hours, the arrested men were interrogated, who disclosed that in the night intervening 12/13.03.2025, the three of them, along with Waseem @ Gullu son of Saleem and Sameer son of Shamshad (the petitioner), had slaughtered a cow and two calves, that were roaming free, doing this act in the jungle of Village Lavvadaudpur, precisely a sugarcane field. The flesh of the slaughtered progeny of the cow was sold, fetching them a sum of Rs.20,000/- in proceeds. A sum of Rs.5,999/- was utilized to buy a mobile handset, which was recovered from Iqbal and the residue was equally shared by all the offenders. It was also revealed that today when apprehended, they were planning to slaughter cows, roaming free in the jungle. The arrest of the three offenders and whatever they revealed was recorded on a mobile phone by Sub-Inspector Gyanendra Singh, the mobile carrying SID No. 2724984928831148. On the basis of these facts, a separate Crime No.104 of 2025, under Sections 109(1) B.N.S. and 3/25/27 of the Arms Act was registered *vide* G.D. No. 4 at 2:20 a.m. on 17.03.2025 at P.S. Jhinhana, District Shamli.

**10.** Next on the information received, the petitioner was arrested on 17.03.2025 at 9:55 a.m. He is a young man of 20 years and a search of his person, led to the recovery of an illicit knife. Upon inquiry being made about the knife, the petitioner is said to have stated that if during a cow slaughter, someone chances upon him, the knife is used to threaten the man away. The petitioner too, upon being interrogated, revealed that he along with his brother-

in-law (sister's husband), Javed and his companions Iqbal, Jaane Alam and Gullu, had slaughtered cows in the night intervening 12/13.03.2025 in the jungle of Village Lavvadaudpur. Since those men were caught, the petitioner reportedly said that he was going to a friend to hide himself, but was caught. The petitioner was arrested on the spot and charged with Section 4/25 Arms Act, as he was in the possession of an illicit knife. Later on, being involved in Crime No.99 of 2025, under Section 3/8 of the Act of 1955, he was *challaned* in that case also.

**11.** It is also said in the grounds of detention that the petitioner's arrest and recovery were captured on a mobile phone, using the e-evidence application by Head Constable 578 Ashish Kumar, leading to generation of SID No. 2782061293382277. It is also said in the grounds of detention that information of his arrest was given to his family members, whose name was furnished by the petitioner. The memo of arrest and recovery was typed out by the Investigating Officer on his mobile phone, using notepad and forwarded to Head Constable 578 Ashish Kumar on his mobile phone. Two sets of printouts were taken out at Police Chowki Chausana, employing the official printer provided there. Once the printout of the memo of arrest and recovery was available, it was read out to all the members of the police party, who signed the same. A copy of the said memo was provided to the petitioner after securing his acknowledgment on the duplicate. The last of the co-accused Waseem @ Gullu son of Saleem was apprehended after exchange of fire with the Police on 27.03.2025.

**12.** It is next said in the grounds of detention that news of the cow slaughter in Village Lavvadaudpur spread like wildfire in that village and the adjoining villages of Naya Gaon, Dathaida, Gangarampur, Khedki, Panthupura, Jijaula, Laxmipura, Ballamajra, Toda and Khodsama, leading natives of the said village and workers of various organizations/ Hindu organizations to rush to the spot. Upon seeing the remains of the cow and their

progeny, they were enraged. This event coincided with the festival of Holi, which led to religious feelings of the villagers being hurt. They let out their anger by resorting to slogan shouting and blockading the Thana Bhawan-Jhinjhana Road completely. This cause a formidable road jam and on both sides of the blockade, a long queue of vehicles, all standstill was there. The passersby and travellers, caught in this traffic jam, were severely distressed and the public order was completely disturbed. Upon receipt of information, the S.H.O., P.S. Jhinjhana along with police force posted at the Chowki and higher officials of the police reached the spot in order to attempt to pacify the crowd that had gathered there. Police summoned from the adjoining police stations was detailed to duty in maintaining public order and the villagers were assured about the safety and security of their animals, all towards an endeavour to restore public order.

**13.** The prevalent conditions on the spot are evident from copies of reports registered at Police Chowki Chausana, P.S. Jhinjhana, memoranda handed over to the Police/ Administration by the various Hindu organizations, the material collected in the cases registered, including statements recorded and documentary evidence, besides intelligence collected from the adjoining villages by speaking to the locals there and that secured through informers. It is also said in the grounds that the incident was widely reported in various newspapers, which are annexed to the grounds.

**14.** It is next mentioned in the grounds that Head Constable 578 Ashish Kumar and Head Constable 361 Mukesh Kumar, upon return from their beat, had got G.D. No.20 at 7:25 p.m. registered, saying that the petitioner had got information conveyed through his close relatives from the jail that he would be soon released on bail by this Court, and upon being released from jail, would again commit cow slaughter and that the Police could not harm him. This beat information was entrusted for investigation to Sub-

Inspector Pramod Kumar, who found that the information carried correct facts. In addition, the report submitted by the Local Intelligence Unit dated 29.04.2025 also verified the same facts as carried in the beat report.

**15.** It is then said in the grounds that the petitioner was in jail in connection with Case Crime No. 99 of 2025, under Section 3/5A/8 of the Act of 1955 and Section 4/25 of the Arms Act, incarcerated in the District Jail, Muzaffar Nagar, but was regularly endeavouring to secure his release on bail. It is noted that a bail application was filed before the Lower Court, which was rejected, and then the Sessions Judge was moved, seeking bail. The Sessions Judge too rejected the petitioner's bail plea. Now, the petitioner had moved this Court and there are strong chances that the petitioner would be enlarged on bail.

**16.** It is said that the petitioner was consistently endeavouring to secure his release on bail. The fact that the petitioner was so endeavouring is verified by the report of P.S. Jhinhana. The beat information and its verification, besides the Local Intelligence Unit report dated 29.04.2025, also verify the fact. It is next recorded in the grounds that it is, thus, evident that the petitioner's release is nigh. His criminal propensity makes it evident that once released from jail, there is likelihood of commission of such offences that public order in the local limits of P.S. Jhinhana and the adjoining areas would again be vitiated. The detaining Authority then says that on the basis of the aforesaid facts and grounds, he was subjectively satisfied that the petitioner's release from jail could happen soon, and that upon release from jail, there was likelihood of his committing such offences, which are prejudicial to the maintenance of public order. In order to prevent him from acting in a manner prejudicial to the maintenance of public order, it was necessary to detain him.

**17.** The grounds then go on to inform the petitioner of his right to represent to the District Magistrate and the State Government under Section 8 of the NSA. It was also clearly conveyed that in the event the petitioner wished to exercise his right to represent to the Detaining Authority, he could do so promptly through the Superintendent of Jail, where he was detained. Such a representation, if moved within 12 days or before the approval of the detention by the State Government, whichever was earlier, would be considered by the Detaining Authority. The right to represent to the State Government could be exercised by the petitioner by moving the Secretary, Home Department, Government of U.P., Lucknow, through the Superintendent of the Jail, wherever the petitioner was detained.

**18.** The grounds further informs the petitioner that under Sections 9 and 10 of the NSA, if he wished to represent his case before the Uttar Pradesh Advisory Board, Lucknow, he could do so through the Registrar, U.P. Advisory Board, Lucknow, addressing him. The representation could be moved through the Superintendent of the Jail, where he was detained. The petitioner was further informed that the matter would be referred to the Advisory Board under Section 10 within three weeks of the petitioner's detention and his representation, if received with delay, would not be considered by the Board. The petitioner was also informed that under Section 11(1) of the NSA, if the Advisory Board thought it fit or the petitioner desired so, he could be heard in person. If the petitioner wanted a personal hearing before the Board, he must specifically mention it in his representation, which would have to be made through the Superintendent of the Jail, where he was detained and presented to the State Government. The petitioner was informed that under Section 14 of the NSA, he had a right to represent his case against the detention to the Central Government. If the petitioner desired to invoke this remedy, he could do so by making a representation, addressed to

the Secretary, Home Ministry, Government of India through the Deputy Secretary (Security), Security Department, Sector 11 Building, Jaisingh Road, near Regal Park, Jantar-Mantar, New Delhi, moving the said representation through the Jail Superintendent.

**19.** On the basis of these grounds, the District Magistrate, Shamli, passed a detention order under Section 3(3) read with Section 3(2) of the NSA, directing the petitioner to be detained in District Jail, Muzaffar Nagar. Since the petitioner's representation against his detention to the Advisory Board was rejected, the State Government, in exercise of their powers under Section 12(1), confirmed the detention order, directing the petitioner to be detained for a period of 12 months w.e.f. 15.05.2025.

**20.** Aggrieved, this *habeas corpus* writ petition has been preferred.

**21.** The writ petition was presented before the Registry on 11.08.2025 and all defects were removed on 19.08.2025. It came up before the Division Bench for admission on 23.08.2025, when a show cause was issued, asking the respondents to answer why the detinue be not set at liberty. By an order dated 22.09.2025, the Union of India was directed to be impleaded. The petition then came up again on 13.10.2025, when the Court noticed that affidavits, so far as the State of U.P. and their officials were concerned, have been exchanged. The petition was admitted and posted for hearing on 28.10.2025. By that time, the Secretary, Ministry of Home, was granted time to file a counter affidavit. The petition was adjourned once on 28.10.2025. On 03.11.2025, the Union of India filed their counter affidavit, but the learned Counsel for the petitioner waived his right to file a rejoinder to the said affidavit.

**22.** Heard Mr. Narendra Kumar, learned Counsel for the petitioner, Mr. Deepak Mishra, learned A.G.A. on behalf of

respondent Nos.1 to 8 and Mr. Manish Kumar Pandey, learned Central Government Counsel, appearing on behalf of the Union of India.

**23.** The foremost point argued by the learned Counsel for the petitioner is that the grounds of detention in support of the detention order indicate that the petitioner has been detained by the Detaining Authority, exercising jurisdiction under Section 3(3) of the NSA, without application of mind. The next submission is that the offence attributed to the petitioner is a petty offence, triable by Magistrate, which even if established to have been committed by him, would constitute no more than a violation of the law and order. There is no material to show that the petty offence, of which the petitioner was a part, could or did lead to vitiation of public order. Since, there is no case more than that of a violation of the law and order, the prosecution launched against the petitioner would test the petitioner's guilt or otherwise. There is absolutely no basis to invoke the NSA and detain the petitioner without trial, it being evident that there was no violation of public order. It is next argued that there was no material to show that the petitioner, if enlarged on bail, would again indulge in commission of the offence of cow slaughter, endangering the maintenance of public order in future. There being no objective material in this regard, the subjective satisfaction of the detaining Authority is clearly vitiated on account of being based on no material.

**24.** The petitioner alleges that he represented his case in the exercise of his statutory right to the State Government and the Advisory Board, but there was inordinate delay in the decision of his representations by the Government and the Board, vitiating the detention.

**25.** Mr. Deepak Mishra, learned A.G.A., has refuted the submissions advanced on behalf of the petitioner and submitted that the detention order has been made well within the

requirements of the law. He has taken us through the various affidavits and the material, upon which the order of detention is founded.

**26.** So far as the submission that the impugned order is one made without application of mind, we do not think that, that is the case. A perusal of the grounds of detention show that there is a copious consideration not only of the crime disclosed in the FIR, giving rise to Crime No.99 of 2025, but the circumstances of the occurrence and its impact in the locale, where the offence was committed, *vis-a-vis* the issue of public order. All of this has been meticulously considered by the Detaining Authority. This is not a case, where there is a mechanical recital of the fact alone that the offence constitutes a violation of public order, but shows due application of mind to the offence and its impact in the locale on the maintenance of public order. It is also not the case that the Detaining Authority has proceeded to pass the detention order without application of mind to the requirements of the law, after describing the ramifications of the offence in the locale. The Authority has held it to be an act that vitiated public order. It is also remarked by the Authority on the basis of material before it that it was subjectively satisfied that the petitioner was attempting to secure his release on bail and there was likelihood of his being released on bail. It is then said that the material further showed that the petitioner intended to repeat the offence by capturing stray cows, which if done, would again lead to the public order being prejudicially affected. All these features, which figure in the grounds of detention, make it evident that this is not a case, where it can be said that the order of detention has been passed without application of mind. The first point urged by the learned Counsel for the petitioner is, therefore, negated.

**27.** This takes us to the next submission that the crime reported against the petitioner, on the foot of which the impugned order of detention has been passed, is no more than an instance of the

violation of law and order; not an incident, which prejudicially affects public order, so as to entitle the respondents to detain the petitioner without trial, invoking the provisions of the NSA.

**28.** We must remark here that in the genesis of every event, that is an infraction of the public order or its vitiation, there is some crime punishable by law, which can always be termed as a violation of law and order. The violation of law and order is, of course, to be punished in accordance with law after prosecuting the offender, but this does not mean that every infraction of the law and order, that spins out of its trouble spot and widely affects the even tempo of life, is to be regarded as a violation of law and order alone. Whether a violation of the law and order would be just that and no more or have a cascading effect, unsettling the even tempo of life in the locale, or even far and wide, is dependent upon the circumstances, the time, the place and the situation, where the infraction is committed. The point is well elucidated in the celebrated decision of the Supreme Court in **Ram Manohar Lohia v. State of Bihar and another, AIR 1966 SC 740**, where their Lordships of the Constitution Bench held:

"54. We have here a case of detention under Rule 30 of the Defence of India Rules which permits apprehension and detention of a person likely to act in a manner prejudicial to the maintenance of public order. It follows that if such a person is not detained public disorder is the apprehended result. Disorder is no doubt prevented by the maintenance of law and order also but disorder is a broad spectrum which includes at one end small disturbances and at the other the most serious and cataclysmic happenings. Does the expression "public order" take in every kind of disorders or only some of them? The answer to this serves to distinguish "public order" from "law and order" because the latter undoubtedly takes in all of them. Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it

must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the public order are. A District Magistrate is entitled to take action under Rule 30(1)(b) to prevent subversion of public order but not in aid of maintenance of law and order under ordinary circumstances.

55. It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State. By using the expression "maintenance of law and order" the District Magistrate was widening his own field of action and was adding a clause to the Defence of India Rules."

**29.** The point is again considered in **Arun Ghosh v. State of W.B., (1970) 1 SCC 98**, where the concept of public order, as distinguished from law and order, has been eloquently explained by their Lordship thus:

"3. The submission of the counsel is that these are stray acts directed against individuals and are not subversive of public order and therefore the detention on the ostensible ground of preventing him from acting in a manner prejudicial to public order was not justified. In support of this submission reference is made to three cases of this Court: *Dr Ram Manohar Lohia v. State of Bihar* [(1966) 1 SCR 709]; *Pushkar Mukherjee v. State of W.B.* [WP No. 179 of 1968, decided on November 7, 1968: (1969) 1 SCC 10] and *Shyamal Chakraborty v. Commissioner of Police, Calcutta* [WP No. 102 of 1969, decided on August 4, 1969: (1969) 2 SCC 426]. In *Dr Ram Manohar Lohia case* [(1966) 1 SCR 709] this Court pointed out the difference between maintenance of law and order and its disturbance and the maintenance of public order and its disturbance. Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its affect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. Take for instance, a man stabs another. People may be shocked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal

tension. A man stabs a member of the other community. This is an act of a very different sort. Its implications are deeper and it affects the even tempo of life and public order is jeopardized because the repercussions of the act embrace large sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Take the case of assault on girls. A guest at a hotel may kiss or make advances to half a dozen chamber maids. He may annoy them and also the management but he does not cause disturbance of public order. He may even have a fracas with the friends of one of the girls but even then it would be a case of breach of law and order only. Take another case of a man who molests women in lonely places. As a result of his activities girls going to colleges and schools are in constant danger and fear. Women going for their ordinary business are afraid of being waylaid and assaulted. The activity of this man in its essential quality is not different from the act of the other man but in its potentiality and in its affect upon the public tranquillity there is a vast difference. The act of the man who molests the girls in lonely places causes a disturbance in the even tempo of living which is the first requirement of public order. He disturbs the society and the community. His act makes all the women apprehensive of their honour and he can be said to be causing disturbance of public order and not merely committing individual actions which may be taken note of by the criminal prosecution agencies. It means therefore that the question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society. The French distinguish law and order and public order by designating the latter as order publique. The latter expression has been recognised as meaning something more than ordinary maintenance of law and order. Justice Ramaswami in Writ Petition No. 179 of 1968 drew a line of demarcation between the serious and aggravated forms of breaches of public order which affect the community or endanger the public interest at large from minor breaches of peace which do not affect the public at large. He drew an analogy between public and private crimes. The analogy is useful but not to be pushed too far. A large number of acts directed against persons or individuals may total up into a breach of public order. In *Dr Ram Manohar Lohia case* examples were given by Sarkar and Hidayatullah, JJ. They show how similar acts in different contexts affect differently law and order on the one hand and public order on the other. It is always a question of degree of the harm and its affect upon the community. The question to ask is: Does it lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed? This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another."

**30.** There are some issues, where the community is sensitive to the extent that if these surface, there is an inherent potentiality of creating widespread ripples in society that would affect the even tempo of life. One of them is cow slaughter. The slaughtering of a cow, whenever reported or detected, spontaneously evokes strong emotions and violent reactions for obvious injury to religious beliefs of a large section of the society. History is replete with instances of profusion of emotions and violence that an incident of this kind entails. And, it is not that these are matters of historical record to be read in books or fancied about in contemporary world. Violent reactions at the happening of cow slaughter are so well reputed that no one can feign ignorance of the fact, violation of the law apart. Public order is after all not about what the intention of the individual was, or what law he has violated. It is about the impact that his act generates. If the act in question is such that it is not confined to one, two or a few individuals, but disturbs the even tempo of life in the locale or may be beyond, in larger areas, prejudice to public order, is certainly there. The particular act of slaughtering a cow, as already remarked, has immediate and widespread ramifications in society, almost always leading to widespread violence that takes toll on a tranquil society and throws life out of gear.

**31.** There are a series of decisions of this Court, which acknowledge the fact that cow slaughter foments communal tension, brings disharmony and results in a situation, that leads to disturbance of public order. The point is elucidated in a few words in the Bench decision of this Court in **Shaukat Ali v. Union of India and others, 2002 SCC OnLine All 1435**. In **Shaukat Ali (supra)**, it was held:

"1. .... A perusal of the grounds of detention copy of which is Annexure 2, shows that the allegations against the petitioner are that the petitioner had slaughtered a cow and the knife and rods were recovered from him. This incident caused communal tension and hence the impugned detention order was passed.

2. Communal amity and harmony are absolutely essential for the progress of the nation. We cannot afford to have another Gujarat in U.P. Slaughter of cow hurts the sentiments of the Hindus and hence should not be committed. In our opinion cow slaughter affects public order because it is likely to incite communal tension.

3. Hence it is not merely a case of law and order. ....”

**32. Again in *Tauqueer v. State of U.P. and others*, 2002 SCC OnLine All 230, it was held:**

“4. We have carefully perused the detention order and find that the matter certainly pertains to public order and not to law and order. Under our Constitution freedom of religion has been guaranteed as a fundamental right. However the U.P. Prevention of Cow Slaughter Act bans the slaughter of cows and calves. The petitioner has no right to break the law and violate the above Act. It may be mentioned that nobody has right to do any tiling which may lead to communal tension in the country. In case we permit such activities a situation like in Gujarat may recur again Hindus, rightly or wrongly venerate cows. The Muslims should also respect the sentiments of the Hindus and noticing should be done Which may provoke communal riots. The last thing which country can afford today is inflammation of communal feelings in the Society. The petitioner with his associate could slaughter any other animal but certainly not slaughter cows against the provisions of the Prevention of Cow Slaughter Act as that may create communal tension.”

**33. In *Guddu Panchhi v. District Magistrate, Kanpur Nagar and others*, 2004 SCC OnLine All 1847, the following remarks of the Division Bench are relevant:**

“3. Slaughtered cow and she-calf were found lying at the spot. The news of the incident spread in the area like wild fire. Members of the two communities of the society, i.e. Hindus and Muslims collected at the spot in agitated mood and started raising slogans against one another. Communal harmony was disturbed and the atmosphere became tense. The shopkeepers started downing their shutters. People ran helter-skelter. The public order was completely disturbed. S.O. informed the higher authorities on telephone and requisitioned additional force to control the situation. Case Crime No. 217 of 2003 under Sections 3/5/8 of U.P. Cow Slaughter Act was registered against the petitioner and others.

6. Obviously, it is the reaction or fall out of an incident in the society which is determinative as to whether it was only disturbance of law and order or that of public order. In the present case, there was a live link between the alleged criminal activity of the petitioner of cow slaughtering and the purpose of detention. The act was clearly prejudicial to public order as is borne out from the grounds of detention reiterated by respondent No. 1 District Magistrate, Kanpur Nagar in his counter-affidavit. The act of the

petitioner offended the religious feelings of a sect of society venerating cow and its progeny, besides being in contravention of U.P. Prevention of Cow Slaughter Act. The incident disturbed the even tempo of the life of the society. Members of two communities thronged the spot, shouting slogans against one another. The shops were closed and public tranquility was disturbed in the area with tempers of the two communities of the society running high. Additional force had to be deployed in the area to restore the confidence of the people and for the return of normalcy. The incident adversely affected the social harmony, created communal tension and disturbed public order of the area. The matter certainly pertains to public order and not to law and order. We, therefore, reject the sole argument advanced by the learned counsel for the petitioner in support of the petition that it was a matter of law and order only....."

**34.** Much later in **Wasi through Mohd. Rafi v. State of U.P. and others, 2017 SCC OnLine All 1880** in the context of an offence of cow slaughter and its bearing on the disturbance of public order, it was held by a Division Bench of this Court:

"30. Learned counsel for the petitioner has emphatically argued that the place of incident where cow was slaughtered is not a public place, as such, it cannot be treated as an issue of public order. It is the reaction or fall out of an incident in the society which is determinative, as to whether, it was only disturbance of law and order or that of public order. Admittedly, the cow slaughter in an open place may have offended the religious feeling of a society, it is, therefore, important to see the proportionality of the response to the act complained of and in view of this, the gravity of the act may be given a thought where the body parts of cow were lying open in public view. Where cattle has been slaughtered in public view, which may definitely lead to disturbance of the current life of the community, so as to amount to a disturbance of a public order, communal amity and harmony. Slaughter of cow hurts the sentiments of the Hindus which affects public order because it is likely to incite communal tension, hence, it is not merely a case of law and order but that of public order."

**35.** We have already noticed the kind of impact that the incident had not only in the village, where it happened, but in the adjoining villages of Naya Gaon, Dathaida, Gangarampur Khedki, Lavvadaudpur, Shamli-Shamla, Panthupura, Jijaula, Ballamajra, Toda, Khodsama and Laxmipura. The aftermath of the slaughter and its discovery by the Police led to the local populace and volunteers of organizations heading to the place of occurrence. They were workers of Hindu organizations as also others, like

Pashchimi Uttar Pradesh Sanyukt Udyog Vyapar Mandal and the Akhil Bharatiya Pradhan Sangthan, who participated with the public in staging a blockade on the Thana Bhawan – Jhinhana Road. It led to a complete traffic jam with passersby and travellers, badly stuck and unable to move. The even tempo of life was thrown out of gear, necessitating the summoning of additional forces from adjoining police stations. In fact, it was after very sensitive and trained persuasions by officers of the Police that public order could be restored. The locals of the village and adjoining villages had to be assured about their safety and security as well as that of their animals.

**36.** These facts amply show that it was no isolated incident of a violation of the law and order, but one which threw the even tempo of life out of gear. It is the disturbing effect of an incident on serene and tranquil life that determines if it is indeed a violation of public order or a mere breach of law and order. It is not necessary that there should be actual violence, loss of human life and property before an incident can be termed as disturbance of public order. It is disturbance of the daily and ordinary movements of life in the locale, which are the index of vitiation of public order.

**37.** In the totality of circumstances, we hold that this is decidedly a case where public order was prejudicially affected in consequence of the offence committed by the petitioner. And, it is not a mere case of infraction of law and order.

**38.** The next point for consideration is if there was material to show that the petitioner, if enlarged on bail, would again indulge in commission of the offence of cow slaughter, endangering the maintenance of public order in future. It is submitted that there is no objective material in this regard, on the foot of which the Detaining Authority could be subjectively satisfied that the petitioner, if enlarged on bail, would again indulge in repetition of the offence, prejudicially affecting public order.

**39.** The question involved here is part of a wider principle, which relates to preventive detention of persons, already in jail, in connection with the crime, that has given rise to the preventive detention order or some other crime. At some point of time, a question that arose for consideration was, if a man, already in jail, could be preventively detained. He was incarcerated and, therefore, could pose no present danger prejudicially affecting public order. In other words, the question was that as regards a man, already in jail, if the detaining Authority thought of preventively detaining him under the NSA, what would be the principles, upon which the Detaining Authority could rest his subjective satisfaction. This question was answered by the Supreme Court in **Kamarunnissa v. Union of India and another, (1991) 1 SCC 128**, after survey of all relevant authority, thus:

"13. From the catena of decisions referred to above it seems clear to us that even in the case of a person in custody a detention order can validly be passed (1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his being released on bail, and (b) that on being so released he would in all probability indulge in prejudicial activity and (3) if it is felt essential to detain him to prevent him from so doing. If the authority passes an order after recording his satisfaction in this behalf, such an order cannot be struck down on the ground that the proper course for the authority was to oppose the bail and if bail is granted notwithstanding such opposition, to question it before a higher court. What this Court stated in the case of *Ramesh Yadav* [(1985) 4 SCC 232 : 1985 SCC (Cri) 514] was that ordinarily a detention order should not be passed merely to pre-empt or circumvent enlargement on bail in cases which are essentially criminal in nature and can be dealt with under the ordinary law. It seems to us well settled that even in a case where a person is in custody, if the facts and circumstances of the case so demand, resort can be had to the law of preventive detention. This seems to be quite clear from the case law discussed above and there is no need to refer to the High Court decisions to which our attention was drawn since they do not hold otherwise. We, therefore, find it difficult to accept the contention of the counsel for the petitioners that there was no valid and compelling reason for passing the impugned orders of detention because the detenus were in custody."

**40.** These principles have been followed in **T.V. Sravanan v. State, (2006) 2 SCC 664** and **Champion R. Sangma v. State of Meghalaya, (2015) 16 SCC 253**.

**41.** In this case, as already remarked, the entire gamut of principles summarized by the Supreme Court in **Kamarunnissa (supra)**, relating to preventive detention of a man, already in custody, apply. The reason is that it has not been seriously disputed or urged before us that the Detaining Authority was not aware of the fact that the petitioner is actually in custody. More than that, it has also not been urged in this case that the detaining Authority had no reliable material before him, on the basis of which he could infer that there is a real possibility of the petitioner being released on bail. It has, however, been argued that there was no reliable material placed before the Detaining Authority, on the basis of which he could infer that upon being released on bail, the detenu in all probability would indulge in activity, prejudicial to the maintenance of public order. Of course, it is submitted that since there was no reliable material to infer that upon his release, the petitioner would indulge in activity prejudicial to public order, there was no question for the Detaining Authority to think that it was essential to detain him from going about his misadventure. What emerges, therefore, is that the petitioner's submission is an effort to establish that there was no reliable material, on the foot of which, the Detaining Authority could think that upon his release from prison on being granted bail, the petitioner would again act in a manner that would vitiate public order.

**42.** In the grounds of detention, it has figured that on 30.04.2025, Head Constable 578 Ashish Kumar and Head Constable 361 Mukesh Kumar, upon return from their beat, got G.D. No.20 registered at 17:25 hours, mentioning therein that while in jail, the petitioner had sent information through persons close to him that he was about to be released on bail by this Court, and on being emancipated from jail, he would indulge in

cow slaughter. The Police can do him no harm. This beat information was investigated by Sub-Inspector Pramod Kumar and found to be true. There is also a report dated 29.04.2025, given by the Local Intelligence Unit, which affirms the fact that the Beat Constables had reported. Now, this is certainly reliable material, on the basis of which the Detaining Authority could form his subject satisfaction that the petitioner, if released on bail, would in all probability indulge in activity prejudicial to the maintenance of public order. He would in all likelihood repeat the same kind of offence, disturbing the even tempo of life.

**43.** One has to bear in mind that the offence committed by the petitioner was not an offence of the ordinary violent kind, that affected the life of one individual or a group of them, unconcerned with the stable life of the community, which would go on unruffled by his actions. He had committed an act that aroused public outrage amongst a large section of the population in the locale, whose religious feelings were hurt. This kind of an offence, if repeated again, about which the Detaining Authority had material to believe that it could be done by the petitioner upon his release, would certainly imperil the even tempo of life of the locality, and, *a fortiori* public order. In this regard, the nature of the offence has to be borne in mind very discretely. The offence committed by the petitioner, about which we have already spoken, produces almost spontaneous violence and resentment from one section of the community and, therefore, the Detaining Authority was absolutely justified in thinking that the petitioner, upon his release from jail, could indulge in activity, prejudicial to the maintenance of public order. The contention to the contrary, put forward on behalf of the petitioner that there was no such possibility or no reliable material to draw that inference, is stated to be rejected under the circumstances obtaining.

**44.** This brings us to the last point urged on behalf of the petitioner and that is that there was inordinate delay in the

decision of his representations by the State Government and the Advisory Board, vitiating his detention.

**45.** There is a complete calendar of events in paragraph Nos.3, 4, 5, 6, 7, 8, 9 and 10 of counter affidavit filed on behalf of Respondent no. 1 and 2, explaining the time taken by the State Government in disposing of the petitioner's representation and that by the Advisory Board, where the petitioner was heard in person on 28.05.2025. The State Government approved the detention on 23.05.2025, when it was sent to it by the District Magistrate on 16.05.2025. The approval was communicated to the petitioner through the District Authorities by the State Government's radiogram and letter, both dated 23.05.2025, within 12 days from the date of detention. The copy of the detention order, together with the grounds and documents, were forwarded to the Central Government by the State Government under Section 3(5) of the NSA. The petitioner submitted his representation dated 25.05.2025, which was received by the State Government on 06.06.2025. It was sent to the Advisory Board and the Central Government under covering memoranda dated 12.06.2025. Thereafter, the State Government considered the representation of the petitioner on 18.08.2025. It was examined by the Joint Secretary on 18.08.2025, and on the same day, by the Special Secretary (Home) and the Secretary (Home), Government of U.P., Lucknow, also on 18.08.2025. It was submitted to the higher Authorities for final orders of the State Government and rejected on 18.08.2025. It was communicated to the petitioner by the State Government's radiogram dated 19.08.2025. In the rejoinder affidavit, filed in response to the State Government's counter affidavit, it is not at all pointed out by the petitioner as to where unexplained delay occurred, which might vitiate the detention order.

**46.** In the circumstances, we are of opinion that there is no infirmity in the order impugned, directing the petitioner's detention under the NSA.

**47.** This *habeas corpus* writ petition fails and is **dismissed**.

**(Sanjiv Kumar,J.) (J.J. Munir,J.)**

**April 16, 2026**

Anoop/I. Batabyal