2026:PHHC:075168

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRWP-9307-2025(O&M)
Reserved On: 04.05.2026
Pronounced on: 13.05.2026
Uploaded on: 13.05.2026

Whether only operative part of the judgment is pronounced or the full judgment is pronounced: *full Judgment*

Dishant Goel ...Petitioner(s)

VERSUS

Union Of India & Others …Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Abhay Bhardwaj, Advocate,
Mr. Astik Vaid, Advocate,
Mr. D.S. Garcha, Advocate,
for the petitioner(s).

Mr. Rajiv Sharma, Sr. Central Govt. Counsel with
Mr. Vinayak Atre, Advocate,
for Respondents 1& 2.

Mr. Manish Bansal, Public Prosecutor and
Mr. Ankur Bali, Additional Public Prosecutor
for Respondents No. 3 to 5 - UT Chandigarh

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VINOD S. BHARDWAJ, J.

1. The present petition has been instituted seeking issuance of a writ in the nature of *Habeas Corpus* for directing the release of the petitioner/detenue, namely Dishant Goel son of Praveen, on the assertion that he is being illegally detained pursuant to Detention Order No. U-11011/11/2025-PITNDPS dated 02.05.2025, purportedly issued in exercise of powers under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PIT NDPS Act). The petitioner has further prayed for issuance of a writ in the nature of *Certiorari* for quashing and setting aside the aforesaid detention order for being non est and violative of Articles 14, 19 and 21 of the Constitution of India.

FACTS

2. The facts of the present case are that Respondent No.2, in exercise of powers conferred under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (hereinafter referred to as "the PIT NDPS Act"), issued Detention Order No. U-11011/11/2025-PITNDPS dated 02.05.2025 directing the preventive detention of the Petitioner. The said order came to be passed on the subjective satisfaction recorded by the Detaining Authority that the activities attributed to the Petitioner were prejudicial to the prevention of illicit traffic in narcotic drugs and psychotropic substances and, therefore, warranted invocation of the extraordinary preventive detention mechanism contemplated under the provisions of the PITNDPS Act.

3. Thereafter, the aforesaid detention order was modified by Respondent No.2 itself vide order dated 13.05.2025. The modified detention order was subsequently transmitted to Police Station Sector-19 through communication bearing No. C-488167-Hill(2)-2025/6263 dated 14.05.2025 and was received by the concerned police authorities on 16.05.2025 for execution. Pursuant thereto, the Petitioner/Detenue came to be apprehended and detained on 30.05.2025 in execution of the aforesaid detention order.

4. The record further discloses that, at the time of execution of the detention order, the Petitioner was served with a copy of the detention order, the grounds of detention, as also the documents relied upon by the Detaining Authority while arriving at its subjective satisfaction. The said documents were furnished to the Petitioner in the presence of Ms. Shruti daughter of Shri Parmod Chauhan along with three official witnesses, so as to enable the Detenue to make an effective representation against the order of detention.

5. It further emerges from the pleadings and the material placed on record that, subsequent to his detention, the Petitioner submitted representations challenging the legality and validity of the detention order before Respondent No.2 as well as before the Advisory Board constituted under the provisions of the PITNDPS Act. In furtherance of the constitutional mandate contained under Article 22(4) and Article 22(7) of the Constitution of India read with Section 9 of the PITNDPS Act, the Petitioner was produced before the Advisory Board for consideration of the sufficiency of the cause for his continued detention. The Advisory Board thereafter conducted proceedings in the matter and, upon conclusion of the hearings, forwarded its opinion to Respondent No.2.

6. Consequent upon receipt of the opinion rendered by the Advisory Board, Respondent No.2 proceeded to pass a confirmation order dated 14.08.2025 under Section 9(f) of the PITNDPS Act, thereby directing that the Petitioner be detained for a period of one year commencing from the date of his detention i.e. 30.05.2025.

7. The grounds of detention disclose that the Detaining Authority relied upon 7 criminal cases registered against the Petitioner under the provisions of the NDPS Act as the basis for invoking the preventive detention mechanism under the PITNDPS Act. The particulars of the said FIRs and their present status are as follows:

a. FIR No. 551 dated 12.12.2024, registered at Police Station Zirakpur, pertains to an alleged recovery of 4 grams of heroin from the Petitioner. The Petitioner was arrested in the said case and was subsequently granted bail on 27.12.2024 by the learned Judicial

Magistrate First Class, Dera Bassi. The matter is presently stated to be under investigation.

b. FIR No. 71 dated 03.08.2023, registered at Police Station Sarangpur, relates to an alleged recovery of 61.45 grams of heroin. A challan came to be presented on 26.09.2023 and the Petitioner was enlarged on bail by the learned Special Court, Chandigarh on 18.12.2023. The said case is presently pending trial before the competent Court at Chandigarh.

c. FIR No. 41 dated 04.05.2020, registered at Police Station Sector-19, concerns an alleged recovery of 10.29 grams of heroin. The Petitioner was convicted by the learned Special Court, Chandigarh vide judgment dated 15.07.2024 and was sentenced to imprisonment for a period of four months and fifteen days along with a fine of Rs.7,000/-, and in default thereof to further undergo rigorous imprisonment for two months. The sentence awarded in the said case has already been undergone in entirety.

d. FIR No. 125 dated 23.09.2016, registered at Police Station Sector-19, pertained to an alleged recovery of 10 grams of heroin. The Petitioner was acquitted vide judgment dated 21.12.2018 passed by the learned Additional Sessions Judge, Chandigarh. No appeal against the said judgment of acquittal is stated to have been preferred by the State and, as such, the acquittal has attained finality.

e. FIR No. 507 dated 26.10.2015, registered at Police Station Sector-34, related to an alleged recovery of 4 grams of heroin. The Petitioner was acquitted by the learned Judicial Magistrate First

Class, Chandigarh vide judgment dated 17.02.2017. The State did not challenge the said acquittal and the same has consequently attained finality.

f. FIR No. 351 dated 05.09.2015, registered at Police Station Sector-36, concerned an alleged recovery of 10 grams of heroin. The Petitioner was convicted by the learned Additional Sessions Judge, Chandigarh vide judgment dated 30.01.2017 and was sentenced to rigorous imprisonment for one month, already undergone, along with a fine of Rs.3,000/- and one month's default sentence. The sentence awarded therein also stands fully undergone.

g. FIR No. 36 dated 11.02.2015, registered at Police Station Sector-19, pertained to an alleged recovery of 7 grams of heroin. The Petitioner was convicted by the learned Special Court, Chandigarh vide judgment dated 19.01.2017 and was sentenced to imprisonment for one month, already undergone, together with a fine of ₹1,000/- and fifteen days' default imprisonment. The sentence imposed in the said case also stands fully undergone.

8. It is under these circumstances and against the backdrop of the aforesaid preventive detention proceedings that the present petition has been instituted challenging the legality and constitutional validity of the impugned detention order and the subsequent confirmation thereof.

ARGUMENTS ON BEHALF OF THE PETITIONER

9. Counsel appearing for the petitioner vehemently contends that the impugned order of preventive detention is wholly unsustainable in the eyes of law on account of an inordinate, unexplained and fatal delay at every material stage of the detention process, thereby completely severing the "live

and proximate link" between the prejudicial activities attributed to the Petitioner and the necessity of preventive detention. It is submitted that preventive detention, being an exceptional encroachment upon the right to personal liberty guaranteed under Article 21 of the Constitution of India, necessitates immediacy, urgency and proximity between the conduct of the detenue and the necessity to prevent him from acting in a prejudicial manner in future. It is submitted that once such immediacy disappears on account of administrative lethargy, unexplained inaction or avoidable delay, the detention ceases to retain its preventive character and assumes a punitive complexion, which is constitutionally impermissible.

10. It is further contended that the proposal for detention had been forwarded as early as on 08.01.2025, whereas the detention order came to be passed only on 02.05.2025, followed by a modification order dated 13.05.2025 and eventual execution thereof on 30.05.2025. Learned counsel submits that the delay of nearly four months between the proposal and the passing of the detention order, coupled with the further delay in its execution, remains wholly unexplained from the record. It is contended that neither the grounds of detention nor any material supplied to the Petitioner disclose even the slightest explanation justifying such prolonged inaction on the part of the Detaining Authority or the Executing Agency. The absence of any explanation demonstrates a complete lack of urgency and immediacy, which constitute the foundational requirements of a valid preventive detention order.

11. It is further contended that the alleged prejudicial activities relied upon by the Detaining Authority had already become stale, remote and devoid of any rational nexus with the object sought to be achieved through detention. The Petitioner thus submits that the "live and proximate link"

between the alleged activities and the necessity of detention stood irretrievably snapped and, consequently, the subjective satisfaction recorded by the Detaining Authority stands vitiated in law and thus the impugned detention order deserves to be quashed solely on the ground of unexplained and unreasonable delay.

12. In support of the aforesaid submissions, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Sushanta Kumar Banik v. State of Tripura [2022 AIR Supreme Court 4715], Ameena Begum v. State of Telangana [2023 SCC Online SC 1106]*** and judgment of this Court in ***Gurnam Singh @ Gama v. State of Haryana [2024 NCPHHC 126063].***

13. Learned counsel has further contended that the impugned detention order stands vitiated on account of a fundamental violation of the constitutional safeguards guaranteed under Article 22(5) of the Constitution of India, inasmuch as the Detaining Authority failed to furnish to the Petitioner a copy of the proposal initiating the preventive detention proceedings. It is submitted that the constitutional mandate embodied under Article 22(5) is not an empty formality but constitutes a substantive and valuable safeguard intended to ensure that a person preventively detained is placed in a position to make a real, effective and meaningful representation against the order of detention at the earliest available opportunity.

14. It is contended that the constitutional protection under Article 22(5) encompasses two inseparable obligations upon the Detaining Authority, namely: firstly, to communicate to the detenue all grounds and materials relied upon while passing the order of detention; and secondly, to afford the detenue an effective opportunity of making a representation against such detention before the appropriate authority as well as before the Advisory Board. Counsel

contends that the right to representation would become wholly illusory unless every material and foundational document forming part of the detention process is supplied to the detenue in a complete and intelligible manner.

15. Learned counsel submits that the proposal seeking initiation of preventive detention proceedings constituted a vital and foundational document in the present case, since it disclosed the precise date on which the preventive detention machinery was set into motion against the Petitioner. It is contended that such date assumes significance in the context of preventive detention jurisprudence, particularly for examining whether there existed a "live and proximate link" between the alleged prejudicial activities and the necessity of detention. The Petitioner submits that, in the absence of the said proposal, the detenue was deprived of the opportunity to demonstrate before the Advisory Board that there was substantial and unexplained delay between the initiation of the detention process and the eventual passing of the detention order, thereby rendering the material stale and snapping the live nexus required in law.

16. It has been vehemently argued that the non-supply of the proposal caused grave prejudice to the Petitioner, as he was effectively prevented from raising a complete and meaningful challenge on the ground of delay, non-application of mind and absence of immediacy. It is submitted that had the proposal been furnished, the detenue would have been in a position to specifically establish that the detention order was passed after an unreasonable lapse of time and without any contemporaneous material warranting preventive detention. It is contended that withholding of such a crucial document has rendered the Petitioner's right to make an effective representation wholly illusory and has reduced the constitutional safeguard under Article 22(5) to a mere ritualistic compliance devoid of substance.

17. It is further contended that the procedural safeguards applicable to preventive detention laws are required to be construed with strictness, since preventive detention constitutes an exceptional departure from ordinary criminal jurisprudence and directly impinges upon the fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India. Any infraction, however technical it may appear, which impairs the detenue's constitutional right to representation, is sufficient to invalidate the detention order.

18. In support of the aforesaid submissions, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***State of Manipur v. Buyamayum Abdul Hanan @ Anand [2022 SCC Online SC 1455]***, ***Jaseela Shaji v. Union of India [2024 INSC 683]*** and ***Union of India v. Ranu Bhandari [2008 INSC 1049].***

19. Learned counsel further contends that the impugned detention order constitutes a patent misuse and colourable exercise of the extraordinary power of preventive detention vested under the PITNDPS Act. It is submitted that a bare reading of the grounds of detention itself reveals that the Detaining Authority has sought to invoke the exceptional jurisdiction of preventive detention not for any genuine preventive purpose, but merely to circumvent the ordinary process of criminal law after the Petitioner had already been enlarged on bail by the competent Court.

20. It is argued that the very foundation of the detention order is speculative, conjectural and unsupported by any cogent material demonstrating either imminent necessity or any continuing prejudicial activity on the part of the Petitioner. Learned counsel submits that paragraph 4 of the grounds of detention merely records vague apprehensions that the Petitioner may indulge

in similar activities in future, without disclosing any concrete instance, overt act or credible material indicating that the Petitioner had misused the concession of bail or had attempted to interfere with the administration of justice in any manner whatsoever. Counsel submits that the detention order proceeds entirely on presumptions and generalized allegations unsupported by any live or proximate material warranting recourse to preventive detention.

21. It is further contended that paragraphs 6 and 7 of the grounds of detention mechanically and artificially describe the Petitioner as an "organiser", "kingpin" and a person involved in "organised trafficking", despite the admitted factual position that none of the FIRs relied upon by the Detaining Authority contain any allegation of participation in an organised syndicate or drug cartel. Learned counsel submits that all the cases relied upon by the respondents pertain either to small quantity or intermediate quantity recoveries and none disclose any organised criminal network, financing operation, interstate syndicate, or commercial-scale trafficking activity so as to legitimately attract the legislative object underlying the PITNDPS Act. It is submitted that the use of such exaggerated terminology in the grounds of detention is nothing but an artificial attempt to bring the case within the ambit of the PITNDPS Act, which was enacted to deal with organised and large-scale illicit trafficking in narcotic drugs and psychotropic substances and not to target individuals implicated in isolated or ordinary criminal cases under the NDPS Act. It is argued that the Detaining Authority has merely reproduced stereotyped expressions without any supporting material, thereby disclosing complete non-application of mind.

22. It has further been argued that the Petitioner had already been granted regular bail on 27.12.2024 by the competent criminal Court and,

significantly, there is not even a whisper in the grounds of detention alleging misuse of the liberty so granted. No allegation has been made that the Petitioner violated any bail condition, attempted to abscond, tampered with evidence, threatened witnesses or indulged in any illegal activity after being enlarged on bail. In the absence of any such material, it is contended that the invocation of preventive detention is wholly arbitrary and legally impermissible.

23. Learned counsel submits that, even assuming the allegations against the Petitioner to be correct, the respondents had ample remedies available under the ordinary criminal law to address the situation. The authorities could have sought cancellation of bail under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, opposed grant of bail before the competent Court, sought imposition of stringent conditions, or, if the allegations truly disclosed organised criminal activity, proceeded under the provisions relating to organised crime under Section 111 of the Bharatiya Nyaya Sanhita. It is contended that none of these ordinary legal remedies were either exhausted or even considered by the authorities before resorting to the drastic measure of preventive detention. It is vehemently contended that such conduct, clearly demonstrates that the detention order has been passed not as a preventive measure but as a punitive device to nullify judicial orders granting bail and to secure custody through executive action.

24. Counsel for the Petitioner has thus contended that the impugned detention order is a colourable exercise of power, passed in complete disregard of the settled constitutional principles governing preventive detention. It is argued that preventive detention, by its very nature, is an exceptional measure to be resorted to only when ordinary criminal law proves insufficient to deal

with the situation. Where ordinary statutory remedies are adequate and available, recourse to preventive detention becomes wholly unjustified and unconstitutional.

25. In support of the aforesaid submissions, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Rekha v. State of Tamil Nadu [2011 AIR (SCW) 2262]***, ***Ameena Begum v. State of Telangana (supra)*** and judgment of this court in ***Gurnam Singh @ Gama v. State of Haryana (supra)***.

26. Counsel thus submits that the impugned detention order is manifestly punitive in character, suffers from complete non-application of mind and represents an impermissible attempt to stretch the scope of preventive detention beyond its legislative purpose. Consequently, it is prayed that the impugned detention order and the confirmation thereof be quashed.

ARGUMENTS ON BEHALF OF RESPONDENTS

27. Per contra, learned counsel appearing on behalf of the Union of India as well as State of Haryana have contended that the impugned order of detention has been passed strictly in accordance with the provisions of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 and after due compliance with all constitutional and statutory safeguards. It is submitted that the detention order is founded upon cogent material, objective scrutiny and the subjective satisfaction recorded by the competent Detaining Authority and, therefore, warrants no interference in exercise of writ jurisdiction.

28. Learned counsel submits that the preventive detention proposals pertaining to eight individuals, including the present Petitioner, were forwarded by the Chandigarh Administration to the Ministry concerned vide

communication dated 08.01.2025. The said proposals, along with voluminous dossiers and supporting material relating to all proposed detenues, were physically received in the concerned division on 13.01.2025. It is contended that the proposals could not have been processed mechanically or in haste, particularly having regard to the serious nature of allegations under the NDPS Act and the statutory obligation cast upon the authorities to independently verify and scrutinize each case before invoking the extraordinary provisions of preventive detention.

29. It is further submitted that the cases of all eight proposed detenues were individually scrutinized at various administrative levels and that the authorities examined extensive material including FIRs, FSL reports, details regarding quantity and nature of recoveries, call detail record linkages, financial investigations, disclosure statements, chemical examination reports, criminal antecedents and the status of criminal proceedings. Learned counsel submits that during the relevant period, as many as twenty-four proposals under the PITNDPS Act were under active consideration for placement before the Screening Committee and, therefore, considerable administrative and procedural scrutiny was necessarily involved. It has specifically been pointed out that, in four out of the eight proposals, including the case of the present Petitioner, the brief facts and supporting particulars required for placing the matter before the Screening Committee were furnished by the Chandigarh Administration only on 10.03.2025 through e-mail sent at 7:15 PM. It is thus contended that the delay cannot be attributed to any lethargy or inaction on the part of the Detaining Authority, but was occasioned due to the time consumed in obtaining complete and verified material from the sponsoring authority.

30. Learned counsel has further submitted that, upon receipt of complete material, the Ministry processed the proposals and vide communication dated 18.03.2025 sought time from the Chairman of the Screening Committee for placing the matters for deliberation before the Committee. It is submitted that the meeting of the Screening Committee was thereafter scheduled for 16.04.2025 pursuant to communication issued by the NCB Headquarters on 01.04.2025 and formal notice of the meeting was circulated to all members on 11.04.2025. The Committee considered twenty-four proposals during its deliberations held on 16.04.2025 and thereafter the minutes of the meeting were received by the PITNDPS Division on 26.04.2025 and immediately thereafter the proposal concerning the present Petitioner was placed before the Detaining Authority.

31. Learned counsel submits that the Detaining Authority independently examined the entire material placed on record including the number of FIRs registered against the Petitioner, the repeated involvement in narcotic offences, the nature and quantity of recoveries, forensic and chemical examination reports, disclosure statements of co-accused persons, financial and telephonic linkages, and the propensity of the activities to disturb public order and public health. The Detaining Authority also considered the fact that the Petitioner had repeatedly secured bail and that ordinary prosecution had failed to deter him from continuing his involvement in illicit trafficking activities. On the basis of the aforesaid material, the Detaining Authority arrived at the satisfaction that preventive detention of the Petitioner was necessary to prevent him from engaging in illicit trafficking of narcotic drugs and psychotropic substances. Consequently, the detention order dated 02.05.2025 came to be issued directing detention of the Petitioner initially at Central Jail, Dibrugarh,

Assam. Counsel submits that the subsequent modification order dated 13.05.2025 was necessitated solely due to administrative and logistical exigencies arising from the prevailing war-like situation between India and Pakistan during the relevant period, resulting in closure of airports including Chandigarh Airport and cancellation of flights, thereby making transportation of the Petitioner to Dibrugarh impracticable. Upon a request received from the Superintendent of Police, UT Chandigarh on 09.05.2025, the detention order was modified so as to direct detention of the Petitioner at Model Jail, Burail, Chandigarh instead of Dibrugarh Jail. It is submitted that such modification is expressly permissible under Section 12 of the PITNDPS Act, which empowers modification of a detention order at any stage.

32. Learned counsel has further contended that all constitutional and statutory safeguards were duly complied with after execution of the detention order. The Petitioner was detained on 30.05.2025 and was furnished with the grounds of detention, list of relied-upon documents and the entire set of relied-upon materials in both English and Hindi languages on 02.06.2025, i.e., well within the statutory period prescribed under Section 3(3) of the PITNDPS Act. It is argued that the Petitioner himself has admitted in the writ petition that the detention order, grounds of detention and relied-upon documents were served upon him in the presence of witnesses and that the formal requirements of Article 22(5) stood complied with.

33. It is further submitted that reference to the Advisory Board was made on 09.06.2025 strictly within the period prescribed under Section 9(b) of the PITNDPS Act. Hearings before the Advisory Board were conducted on 07.07.2025 and 21.07.2025 and upon receipt of the opinion dated 08.08.2025 from the Advisory Board, the competent authority passed the confirmation

order dated 14.08.2025 under Section 11 of the PITNDPS Act confirming detention of the Petitioner for a period of one year from the date of detention.

34. While controverting the Petitioner's contention regarding delay, learned counsel has argued that the chronology of events itself demonstrates continuous administrative movement and active consideration of the proposal at every stage. It is submitted that the time consumed in collection, verification, scrutiny and evaluation of extensive material in multiple detention proposals cannot be equated with unexplained or casual delay so as to vitiate the detention order. According to the respondents, the delay, if any, stood satisfactorily explained and did not snap the "live and proximate link" between the activities of the Petitioner and the necessity for preventive detention, particularly considering the repeated involvement of the Petitioner in narcotic offences over a sustained period of time.

35. The respondents have also controverted the argument that ordinary criminal law remedies were sufficient in the facts of the case. It is contended that preventive detention operates in a distinct field altogether and is intended not to punish past conduct but to prevent future prejudicial activities. Merely because the Petitioner had secured bail in criminal cases would not denude the competent authority of its power to invoke preventive detention where the material disclosed a continuing propensity to engage in illicit trafficking activities. It is submitted that repeated criminal involvement despite prior arrests, prosecutions and convictions clearly demonstrated that ordinary criminal law had failed to achieve the intended deterrent effect.

36. In response to the contention regarding non-supply of the proposal, learned counsel submits that the proposal seeking detention is merely an inter-departmental communication between the sponsoring authority and the

competent authority and does not constitute a relied-upon document required to be supplied under Article 22(5) of the Constitution of India. It is argued that the constitutional requirement is confined to supply of those documents which form the basis of the detention order and are relied upon by the Detaining Authority while recording subjective satisfaction and that all such relied-upon documents, including FIRs, forensic reports, grounds of detention and supporting materials, were supplied to the Petitioner in bilingual form, thereby enabling him to make an effective representation.

37. It has further been contended that the Petitioner has failed to demonstrate any actual prejudice caused on account of the non-supply of the proposal. Mere assertion of non-supply, without establishing how the absence of such document impaired the Petitioner's right of representation, cannot invalidate the detention order. Learned counsel submits that the Petitioner was fully aware of the factual basis of detention, was represented before the Advisory Board and in fact availed of his right to submit representations before the competent authorities. Hence, no violation of Article 22(5) can be said to have occurred.

38. On the strength of the aforesaid submissions, learned counsel appearing on behalf of the Union of India has prayed for dismissal of the writ petition by contending that the impugned detention order has been passed after due application of mind, upon objective consideration of all relevant material and in strict conformity with the constitutional and statutory framework governing preventive detention under the PITNDPS Act.

39. In support of his arguments, counsel has placed reliance on the judgments of the Supreme Court in the cases of ***State of Maharashtra v. Bhaurao. Punjabrao Gawande [2008 3 SCC 613], Shalini Soni v. Union Of***

India [1981 AIR (SC) 431], Radhakrishnan Prabhakaran v. State of TN [2000 (9) SCC 170], A.C. Razia v. Govt. of Kerala [2004 (2) RCR (Cri) 236], J. Abdul Hakeem v. State of TN [2005 3 Apex Criminal 308], Sunila Jain v. Union Of India [2006 2 RCR (Cri) 146], Adhiskwar Jain v. Union of India [2006 4 RCR (Cri) 931], Jaseela Shaji v. Union Of India [2024 9 SCC 53] and judgment of this court in ***Sadha Ram @ Bhajna Ram v. State of Haryana [2024 2 PLR 612].***

40. I have heard the counsel appearing for the parties and have gone through the documents appended with the present petition and also the judgments submitted by them.

CONSIDERATION

41. At the outset it is apposite to examine the relevant statutory provisions and the same are as under:

> ***"Article 22 in Constitution of India***
>
> *22. Protection against arrest and detention in certain cases*
>
> *(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.*
>
> *(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.*
>
> *(3) Nothing in clauses (1) and (2) shall apply-*

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless-

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention: Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe-

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without

obtaining the opinion of an Advisory Board in accordance with the provisions of sub- clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

Relevant Sections of the PITNDPS Act, 1988:

Section -3. Power to make orders detaining certain persons.-

(1) The Central Government or a State Government, or any officer of the Central Government, not below the rank of a Joint Secretary to that Government, specially empowered for the purposes of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government, specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person (including a foreigner) that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary so to do, make an order directing that such person be detained.

(2) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government shall, within ten days, forward to the Central Government a report in respect of the order.

(3) For the purposes of clause (5) of article 22 of the Constitution, the communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made 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.

Section 9: Advisory Board

For the purposes of sub-clause (a) of clause (4) and sub-clause (c) of clause (7) of article 22 of the Constitution-

(a) the Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards each of which shall consist of a Chairman and two other persons possessing the qualifications specified in sub-clause (a) of clause (4) of article 22 of the Constitution;

(b) save as otherwise provided in section 10, the appropriate Government shall, within five weeks from the date of detention of a person under a detention order, make a reference in respect thereof to the Advisory Board constituted under clause (a) to enable the Advisory Board to make the report under sub-clause (a) of clause (4) of article 22 of the Constitution;

(c) the Advisory Board to which a reference is made under clause (b) shall after considering the reference and the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard in person, after hearing him in person, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is

sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned;

(d) when there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board;

(e) a person against whom an order of detention has been made under this Act shall not be entitled to appear by any legal practitioner in any matter connected with the reference to the Advisory Board and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential;

(f) in every case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit and in every case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

Section 11: Maximum period of detention.-

The maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 do not apply and which has been confirmed under clause (f) of section 9 shall be one year from the date of detention, and the maximum period for which any person may be detained in pursuance of any

detention order to which the provisions of section 10 apply and which has been confirmed under clause (f) of section 9, read with sub-section (2) of section 10, shall be two years from the date of detention:

Provided that nothing contained in this section shall affect the power of appropriate Government in either case to revoke or modify the detention order at any earlier time."

42. This Court, on an earlier occasion while dealing with the scope, ambit and constitutional limitations governing the exercise of preventive detention under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, had exhaustively examined the judicial precedents rendered by the Hon'ble Supreme Court as well as various High Courts vide judgment dated 02.07.2024 passed in ***CWP-22223-2023*** titled as ***Sadha Ram @ Bhajna Ram v. State of Haryana and Others*** and summarized the settled position in law relating to the circumstances under which an order of preventive detention may legitimately be sustained. Upon a comprehensive analysis of the constitutional safeguards embodied under Articles 21 and 22 of the Constitution of India, the statutory framework of the PITNDPS Act and the governing principles emerging from the authoritative pronouncements of the Hon'ble Supreme Court, this Court had held that the extraordinary power of preventive detention can be invoked only upon strict compliance with constitutional and statutory safeguards and only where the competent authority is able to arrive at a genuine and objective satisfaction founded upon credible and proximate material demonstrating an imperative necessity to prevent the detenue from engaging in prejudicial activities in future.

43. It was further held that the satisfaction of the Detaining Authority cannot rest merely upon conjectures, generalized apprehensions or

stale material, but must be founded upon cogent and credible evidence establishing a rational nexus between the past conduct of the detenue and the necessity of preventive detention. This Court held that, while examining the validity of a detention order, the Court is required to assess whether the decision-making process discloses reasonable grounds supported by relevant material such as prior criminal antecedents, recoveries effected, forensic reports, intelligence inputs, disclosure statements, likelihood of tampering with evidence, threat to public safety and the probability of the detenue continuing to engage in illicit trafficking activities.

44. This Court had also emphasized that the statutory timelines and procedural safeguards prescribed under the PITNDPS Act are mandatory in nature and must be adhered to with strictness. The requirement of prompt communication of grounds of detention, timely reference to the Advisory Board and expeditious consideration of the detention proposal were held to be indispensable safeguards intended to prevent arbitrary deprivation of personal liberty. It was further observed that any inordinate or unexplained delay either in initiating, passing, or executing the detention order may snap the “live and proximate link” between the alleged prejudicial activities and the necessity of detention, thereby rendering the detention order vulnerable in law on account of staleness of material.

45. This Court had further reiterated that preventive detention is not punitive in character and should not be employed as a substitute for ordinary criminal law or as a mechanism to circumvent judicial orders passed by competent criminal courts. Being an extraordinary measure which permits curtailment of liberty without trial, the power of preventive detention is required to be exercised sparingly, with circumspection and only in exceptional

circumstances where ordinary legal remedies are found inadequate to address the situation.

46. The Court had additionally observed that the exercise of such drastic power would not be sustained merely on the assumption that a person having criminal antecedents is likely to repeat similar conduct in future. The existence of a proximate, live and credible link between the past conduct and the imminent necessity of detention was held to be a sine qua non for sustaining preventive detention. Any absence of such live nexus or lack of credible material demonstrating imminent necessity, would render the exercise of power arbitrary, excessive and constitutionally unsustainable.

47. It was accordingly concluded that, while judicial review in matters of preventive detention may not ordinarily extend to re-appreciation of the sufficiency of material, the Courts are nevertheless duty-bound to examine whether the constitutional safeguards, statutory mandates and foundational requirements justifying preventive detention have been duly satisfied. Where any safeguard is found to have been breached, or where the detention order is shown to suffer from absence of proximate nexus, non-application of mind, stale material, or lack of objective satisfaction, the constitutional guarantee of personal liberty would prevail and the detention order would be liable to be set aside. The relevant extract of the aforesaid judgment is as under:

> *"56. The position in law has been culled out by the Hon'ble Supreme Court in a catena of judgments referred above under the circumstances in which order of preventive detention may be passed. An order of preventive detention needs to be examined from the availability of the legal framework and the statutory requirements for directing preventive detention along with reasonable grounds laying foundation for directing such detention. The satisfaction of the competent authority has to be seen on the basis of credible evidence*

and not just a mere apprehension and must be propelled by public interest. Besides, the proportionality of preventive detention also needs to be kept in mind along with the fact as to whether there is an effective alternate measure with the authority to seek the desired result but for adopting the course of preventive detention. For examining as to whether the satisfaction of an authority is formed on reasonable grounds, the Court is also required to see the relevant factors which may be essential for giving rise to reasonable grounds and it usually refers to a standard suggesting rational basis or credible evidence to believe that the detenue is likely to engage in such activity. The fact which may be crucial for propelling a satisfaction include the prior criminal record/past involvement, the credibility of the witness/informant, the existence of physical evidence in the form of seizure of any narcotic etc. The assessment of the flight risk, public safety and tampering with evidence as also input from the intelligence and surveillance. A perusal of Section 3 of the Act of 1988, requires that the competent authority should be satisfied with respect to the involvement of the person and with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, deem it necessary to direct detention. The subsequent part necessitates that as and when an order of detention is made, the same shall be forwarded to the Central Government within a period of ten days and that communication of the grounds of detention to the detenue shall be made within a period of five days from the date of detention. Further, the appropriate Government is required to make a reference to the Advisory Board within a period of five weeks of the detention and the Advisory Board thereafter has a period of six weeks (a total of 11 weeks from the date of order of detention) to prepare its report specifying its opinion as to whether there is a sufficient cause for detention or not. The appropriate Government is thereafter required to confirm the order of preventive detention and continue the detention for such period as it thinks fit.

57. A perusal of the provisions as also the precedents establish that the timelines prescribed and the safeguards evolved are mandatory and have to be adhered to. The power of preventive detention is not a

mode of infliction of punishment and that the proximity of the cause to the past conduct and the imperative need to detain a person has attained vital significance. Where the satisfaction of the authority is not based upon a live and proximate link between the past conduct of a person and the imperative need to detain, such detention is deemed as based on a stale cause and the orders of preventive detention held to be bad. Similarly, where there has been an inordinate delay in passing the order of preventive detention from the date when the proposal was mooted, such order of detention has also been held to be bad. It is apparent from a perusal of the order of Hon'ble Supreme Court passed in the matter of Sushanta Kumar Banik (supra) that as the order of preventive detention was passed after a period of five months, the same was held to be bad and liable to be set aside. However, the Division Bench of the Gauhati High Court set aside the order of preventive detention when there was a delay of 2 ½ months in decision making in the matter of Babul Ahmed (supra).

58. Even though the grounds for which preventive detention may be invoked may vary in statutes, however, the safeguards prescribed under the Constitution are in addition to the safeguards that may be provided under the respective statute. The tests prescribed in the judgment of Ameena Begum (supra) have to be satisfied collectively and any disregard of such circumstances may render the order of preventive detention bad and liable to be set aside. The said circumstances do not transcend the decision but examine the decision making process only with a view to ascertain as to whether an order of preventive detention is imperative. Being an extra-ordinary power which infringes on the rights and liberties of an individual in anticipation of crime, the exercise of power has to be sparing and as an exceptional contingency.

59. The power of preventive detention is not just an empowering provision with no responsibility or checks. When the power is immense, invocation of the power needs to be justified as per the exceptional circumstances and to establish as to how only the mode of preventive detention is the only way forward. It is not a mode of enforcing Police rule on suspicion or heightened probabilities but for

reasons beyond that and on credible likelihood of his involvement in another crime. Such credibility may be required to be supported by some proximate and live link to an imminent involvement in another crime and not just on the belief that the past defines the future and that there is no other way forward to a detenue than indulge in another crime. Any lack of such credible input and the proximate live link is likely to label the exercise of such power as excessive, arbitrary, draconian and liable to be set aside.

60. An objective decision is backed by cogent material and objective conclusion and not just a subjective decision on a perceptive conclusion.

61. A Court of law thus is required to see whether the necessary tests, parameters and circumstances justifying need for preventive detention exist or not. Where any of the safeguards are found lacking, the fundamental rights guaranteed to a citizen would over-ride such order being in violation of the safeguards and not fulfilling the cardinal test of authority in law."

48. Under the given circumstances and in the light of the position of law referred to above, the order of preventive detention dated 13.05.2025 is required to be examined. The same is extracted as under:

"Subject: Grounds on which Detention Order F. No- U-11011/11/2025-PITNDPS dated 13th May, 2025 has been issued against Dishant Goel S/o Sh. Parveen Kumar R/o #61, Krishna Enclave, Dhakoli, 2nd address H.No. 3262, Sector 21-D, Chandigarh under the PITNDPS Act, 1988 - Reg.

The following facts have been brought to my attention by the Sponsoring Authority of this PITNDPS proposal i.e. Superintendent (Police) for Home Secretary, Chandigarh Administration and I have gone through the facts presented by the Sponsoring Authority as mentioned below: -

1.1 Case FIR No. 551 Dated 12.12.2024 U/S 21/61/85 NDPS Act PS-Zirakpur, Mohali, Punjab

a. *On 12.12.2024, SI Jaswant Singh (366/FGS) along with the police party raided Room No. 1206, CCC Building, VIP Road, Zirakpur, based on secret information. They apprehended you ie., Dishant Goel, son of Sh. Parveen Kumar, resident of #3262, Sector-21/D, Chandigarh, and two co-accused while they were carrying 4 grams of heroin without a permit or license.*

b. *You were arrested on 12.12.2024 and sent to judicial custody:*

c. *You were granted bail on 27.12.2024 by the Hon'ble Court of Sh. Ramesh Kumar, PCS JMIC, Dera Bassi, Mohali, Punjab, on certain conditions like not to leave India without prior permission of the court, attend the court regularly on each date of hearing etc.*

d. *The current status of the case is that it is still under investigation with PS Zirakpur, Punjab.*

1.2 Case FIR No. 71 Dated 03.08.2023 U/S 21 NDPS Act PS-Sarangpur,Chandigarh

a. *On 03.08.2023, SI Sapinder Singh (1632/CHG) along with the police party was on naka duty near EWS Dhanas, Chandigarh. At around 8.05 PM, heand the team apprehended you ie., Dishant Goel, son of Sh. Parveen Kumar, resident of #3262, Sector-21/D, Chandigarh, while you were carrying 61.45 grams of heroin in a Hyundai i-20 car bearing registration No. CH01BX7912.*

b. *You were arrested on 03.08.2023 by PS-Sarangpur, Chandigarh and sent to judicial custody.*

c. *The Chemical Examination report dated 25.09.2023 from the Chemical Examiner, CFSL, Sector 36, Chandigarh (Report No.*

CFSL(C)/2877/NAR 1488/23/2938) confirmed the presence of Diacetylmorphine (Heroin), Monoacetylmorphine, 6-Monoacetylmorphine, Acetylcodein in the sample.

d. *On further investigation, one woman namely Diksha Kumari D/o Surinder Kumar R/o VPO Paliyar District Chamba, H.P, got arrested on 04.08.2023, who used to receive the money from customers in her Paytm account and transferred the said amount to the bank account of Dishant Goeli.e., you.*

e. *A Charge sheet was filed on 26.09.2023 in the District Court, Chandigarh.*

f. *Hyundai i-20 car bearing no. CH 01-BX-7912 was ordered to be released on superdari in favour of its registered user by order dated 27.10.2023 of Hargurjit Kaur Additional District Judge, Chandigarh.*

g. *You were granted bail on 18.12.2023 by the Hon'ble Court of Ms. Hargurjeet Kaur, Judge Special Court, Chandigarh.*

h. *Articles recovered during your personal search i.e. mobile phone make iphone 11, Black wallet with documents, Aadhar Card, ATM Cards and currency of Rs 250/-, were released vide order dated 12.02.2024.*

i. *The said case is under trial in District Court Sector- 43 Chandigarh.*

1.3 Case FIR No. 41 Dated 04.05.2020 U/S 21 NDPS Act PS-19, Chandigarh

a. *On 04.05.2020, SI Satwinder of the Crime Branch along with the police party was on patrolling duty near Dev Samaj Sr. Sec.*

School, Sector-21/D, Chandigarh. At around 6.50 PM, he and the team apprehended a pedestrian named Dishant Goel i.e., you, son of Sh. Parveen Kumar, resident of #3262, Sector-21/D, Chandigarh, near the T-point of Sector-21 while you were carrying 10.29 grams of heroin without a permit or license.

b. *Based on your involvement, Dishant Goel ie., you were arrested on 04.05.2020 by Crime Branch, Chandigarh and sent to judicial custody.*

c. *The Chemical Examination report dated 20.07.2020 from the Chemical Examiner, CFSL, Sector 36, Chandigarh (Report No. CFSL(C)/773/20/Chem /173/20/1006) confirmed the presence of Diacetylmorphine (Heroin) and Acetaminophen (Paracetamol) in the sample.*

d. *A Charge sheet was filed against Dishant Goel i.e., you on 25.06.2020 in the District Court, Chandigarh.*

e. *Bail Application was rejected by Additional Session Judge/Duty Judge, Chandigarh in its order dated 15.06.2020.*

f. *Accused, Dishant Goel i.e., you, were convicted on 15.07.2024 by the Hon'ble Court of Ms. Hargurjeet Kaur, Judge Special Court, Chandigarh. You were sentenced to undergo Imprisonment for the period of 4 months and 15 days (which you had already undergo during trial and investigation) and fined Rs. 7000 and in default of payment of fine, to undergo further rigorous imprisonment for a period of 2 months for the offence under Section 21 NDPS Act.*

1.4 Case FIR No. 125 Dated 23.09.2016 U/S 21 NDPS Act PS-19, Chandigarh

a. *On 23.09.2016, SI Tejinder Singh along with the police party was on patrolling duty near House No. 274, Sector-21/A, Chandigarh. At around 9.45 PM, he and the team apprehended a pedestrian named Dishant Goel i.e., you, son of Sh. Parveen Kumar, resident of #3262, Sector-21/D, Chandigarh, while you were carrying 10 grams of heroin without a permit or license.*

b. *Dishant Goel i.e., you were arrested on 23.09.2016 by Crime Branch, Chandigarh and sent to judicial custody.*

c. *The Chemical Examination report dated 21.10.2016 from the Chemical Examiner, CFSL, Sector 36, Chandigarh (Report No. CFSL(C)/1964/16/ CHEM/257/16/2517) confirmed the presence of Diacetylmorphine (Heroin) in the sample.*

d. *A Charge sheet was filed against Dishant Goel i.e., you on 17.02.2017 in the District Court, Chandigarh.*

e. *Dishant Goel i.e., you were granted bail on 02.11.2016 by the Hon'ble Court of Sh. Ranjit Kumar Jain, ADJ, Chandigarh.*

f. *Dishant Goel i.e., you, were acquitted by extending benefit of doubt, on 21.12.2018 by the Hon'ble Court of Sh. Rajesh Sharma, ASJ, Chandigarh.*

1.5 Case FIR No. 507 Dated 26.10.2015 U/S 21 NDPS Act PS-34, Chandigarh

a. *On 26.10.2015, Si Juldan Singh (765/CP) along with the police party was on patrolling duty near the dividing road green belt, Sector-45C+D, Chandigarh. At around 7.00 PM on 26.10.2015, he and the team apprehended a pedestrian named Dishant Goel i.e., you, son of Sh. Parveen Kumar, resident of #3262 Sector-*

21/D, Chandigarh, while you were carrying 4 grams of heroin without a permit or license.

b. *Dishant Goel i.e., you were arrested on 26.10.2015 by Crime Branch, Chandigarh and sent to judicial custody.*

c. *The Chemical Examination report dated 03.02.2016 from the Chemical Examiner, CFSL, Sector 36, Chandigarh (Report No. CFSL(C)/2088/15/Chem/317/15) confirmed the presence of Alprazolam in the sample.*

d. *A Charge sheet was filed against Dishant Goel i.e., you on 03.04.2016 in the District Court, Chandigarh.*

e. *Dishant Goel i.e., you, were acquitted by extending benefit of doubt on 17.02.2017 by the Court of Sh. Hirdayjit Singh, JMIC, Chandigarh.*

1.6 Case FIR No. 351 Dated 05.09.2015 U/S 21 NDPS Act PS-36, Chandigarh

a. *On 05.09.2015, SI Sewa Singh along with the police party was on patrolling duty near Guru Nanak Public School Hostel Over bridge, Sector-36 Chandigarh. At around 8.45 PM on 05.09.2015, he and the team apprehended a pedestrian named Dishant Goel i.e., you, son of Sh. Parveen Kumar, resident of #3262, Sector-21/D, Chandigarh, while you were carrying 10 grams of heroin without a permit or license.*

b. *Dishant Goel i.e., you were arrested on 05.09.2015 by PS-36, Chandigarh and sent to judicial custody.*

c. *The Chemical Examination report dated 21.12.2015 from the Chemical Examiner, CFSL, Sector 36, Chandigarh (Report No.*

CFSL(C)/1845/15 /Chem/289/15) confirmed the presence of Diacetylmorphine(Heroin),6-Monoacetylmorphine, Acetylcodeine, and Dextromethorphan in the sample.

d. *A Charge sheet was filed against Dishant Goel i.e., you on 31.01.2016 in the District Court, Chandigarh.*

e. *Dishant Goel i.e., you, were convicted on 30.01.2017 by the Hon'ble Court of Sh. Atul Kasana, ASJ, Chandigarh. You were sentenced to undergo rigorous imprisonment for one month (the period already undergone), fined Rs.3000 and in default of payment of fine, to further undergo rigorous imprisonment for one month.*

1.7 Case FIR No. 36 Dated 11.02.2015 U/S 21 NDPS Act PS-19, Chandigarh

a. *On 11.02.2015, ASI Shingara Singh along with the police party was on patrolling duty near Dev Samaj Sr. Sec. School, Sector-21, Chandigarh. At around 5.45 PM on 11.02.2015, he and the team apprehended a pedestrian named Dishant Goelie., you, son of Sh. Parveen Kumar, resident of #3262, Sector-21/D, Chandigarh, while you were carrying 7 grams of heroin without a permit or license.*

b. *Based on your involvement, Dishant Goel ie., you were arrested on 11.02.2015 by PS-19, Chandigarh and sent to judicial custody.*

c. *The Chemical Examination report dated 07.07.2015 from the Chemical Examiner, CFSL, Sector 36, Chandigarh (Report No. CFSL(C)/351/15 /CHEM/36/15/1120) confirmed the presence of Diacetylmorphine (Heroin), 6-Monoacetylmorphine, 6-*

Acetylcodeine, and Dextromethorphan in the sample.

d. *A Charge sheet was filed against Dishant Goel i.e., you on 14.09.2015 in the District Court, Chandigarh.*

e. *Dishant Goel i.e., you, were convicted on 19.01.2017 by the Hon'ble Court of Sh. Ranjit Kumar Jain, Judge Special Court, Chandigarh. You were sentenced to the period of one month (already undergone) and fined Rs. 1000 In default of payment of fine you shall undergone RI for 15 days.*

2. The Sponsoring Authority has submitted following observation about proposed detenue Dishant Goel i.e., you:-

a. *From the above registered cases against Dishant Goel i.e., you, it is clear that you are a habitual offender and actively involved in illicit trafficking of Narcotics Drugs and Psychotropic Substance since that last 10 years and you were also caught red handed with Narcotic Drugs Psychotropic Substance. You had already been arrested in many times possessing Narcotic Psychotropic Substance. Possibility cannot be ruled out of you again indulging in previous activities which are prejudicial to revenue and economy of state. It is pertinent to mentioned here that, due to your suspicious activities the Kalandra u/s 110 Cr.PC was also got prepared against Dishant Goel i.e., you on 03.06.2024.*

b. *It is further submitted that the conduct of Dishant Goel i.e., you had been so detrimental to the society that FIRs kept on being registered against you from time to time under the offences of NDPS Act as mentioned above, but that did not deter you from stopping nefarious activities. On the contrary, you become more*

and more bold and continued with flying of Narcotic/Drugs to vulnerable members specially that your locality and nearby sectors. You spoiled their lives by making them permanent drug addicts which is one of the most heinous crimes against the society. You had enough opportunity in your hand to improve your conduct but did not make any efforts to improve yourself.

c. *It is apprehended that emboldened by the bail in the cases under reference you still indulged in smuggling/sale/transportation etc. of the Narcotics contrabands and thus shall be continues threat to the society particularly and shall keep on supplying drugs to them. Needless to say, that your detention, therefore, shall be appropriate and lawful in the light of your past activities. Thus, it has become very clear that you can carry out your nefarious activities more vigorously.*

d. *Hence, keeping in view of the above-mentioned facts, the conduct of Dishant Goel i.e., you mentioned above is dangerous as well as against the interest of society and the state. Your repeated activities under NDPS Act make your case fit for detention proposal under prevention of illicit Traffic in Narcotic Drug and Psychotropic Substance Act, 1988.*

3. After going through the facts and circumstances in all above-mentioned cases, it is clearly established that you i.e. Dishant Goel s/o Sh. Parveen Kumar are actively involved in trafficking of Narcotics Drugs and Psychotropic Substances and you are a habitual offender. Your presence in the society is a threat to innocent person of the locality/State/Nation and your activities are prejudicial to society.

4. I am aware that at present Dishant Goel s/o Sh. Parveen Kumar i.e. you are on bail. However, considering your conscious involvement in illegal trafficking of drugs and psychotropic substances in a repeated manner to the detriment of the society, you have a high propensity to be involved in the prejudicial activities in future.

5. In view of the facts mentioned above, I have no hesitation in arriving at the conclusion that you i.e. Dishant Goel s/o Sh. Parveen Kumar through your above acts engaged yourself in prejudicial activities of illicit traffic of narcotics and psychotropic substances, which poses serious threat to the health and welfare not only to the citizens of this country but to every citizen in the world, besides deleterious effect on the national economy. The offences committed by you i.e. Dishant Goel s/o Sh. Parveen Kumar are so interlinked and continuous in character and are of such nature that these affect security and health of the nation. The grievous nature and gravity of offences committed by you i.e. Dishant Goel s/o Sh. Parveen Kumar in a well-planned manner clearly establishes your continued propensity and inclination to engage in such acts of prejudicial activities. Considering the facts of the present case mentioned in foregoing paras, I have no hesitation in arriving at the conclusion hat there is ample opportunity for Dishant Goel s/o Sh. Parveen Kumar i.e. you to repeat the above serious prejudicial acts. Hence, I am satisfied that in the meantime you i.e. Dishant Goel s/o Sh. Parveen Kumar should be immobilized and there is a need to prevent you i.e. Dishant Goel s/o Sh.Parveen Kumar from engaging in such illicit traffic of narcotic drug and psychotropic substances in future by detention under section 3(1) of Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act, 1988.

6. In view of the overwhelming evidences discussed in foregoing paras, detailing how you ie. Dishant Goel s/o Sh. Parveen Kumar have indulged in organizing the illicit trafficking of Narcotic Drugs and Psychotropic substances as well as have a high propensity to engage in this illicit activity, it is conclusively felt that if you are not detained under section 3(1) of the PITNDPS Act, 1988, you i.e. Dishant Goel s/o Sh. Parveen Kumar would continue to so engage yourself in possessing, purchase, sale, transportation, storage, use of narcotics and psychotropic substances illegally and handling the above activities, organizing directly in the above activities and conspiring in furtherance of above activities which amount to illicit trafficking of psychotropic substances under section 2(e) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act, 1988 in future also. I am, therefore, satisfied that there is full justification to detain you i.e. Dishant Goel s/o Sh. Parveen Kumar under section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 with a view to preventing you i.e. Dishant Goel s/o Sh. Parveen Kumar from engaging in above illicit traffic of narcotics and psychotropic substances specified under schedule to the NDPS Act, 1985.

7. Considering the magnitude of the operation, the chronicle sequence of events, the well-organized manner in which such pre-judicial activities have been carried on, the nature and gravity of the offence, the consequential extent of investigation involved including scanning/ examination of papers, formation of grounds, I am satisfied that the nexus between the dates of incident and passing of the Detention Order as well as object of your detention has been well maintained.

8. I consider it to be against public interest to disclose the source of information at the relevant paragraphs of the grounds of detention above.

9. While passing the Detention Order under the Prevention of Illicit Trafficking of Narcotic Drugs and Psychotropic Substances Act, 1988, I have referred to and relied upon the documents mentioned in the enclosed list.

10. You i.e. Dishant Goel s/o Sh. Parveen Kumar have the right to represent against your detention to the Detaining Authority, to the Central Government as well as to the Advisory Board. If you wish to avail this right, you should send your representation through the Jail Authorities where you are detained, in the manner indicated below:

a. *Representation meant for the Detaining Authority should be addressed to the Joint Secretary (PITNDPS), Government of India, Ministry of Finance, Department of Revenue, Room No. 156B, 1st Floor, North Block, New Delhi-110001.*
b. *Representation meant for the Central Government should be addressed to the Secretary to the Government of India, Department of Revenue, Ministry of Finance, North Block New Delhi 110001.*
c. *Representation meant for the Advisory Board should be addressed to the Chairman, PITNDPS Central Advisory Board, Hon'ble High Court of Delhi at Sher Shah Road, New Delhi - 110503.*

11. You are further informed that you shall be heard by the Advisory Board in due course, if the Board considers it essential to do so or if you so desire.

12. The above grounds are communicated to you for the purpose of Clause (5) of Article 22 of the Constitution of India and as required under section

3(3) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988."

49. In light of the submissions advanced on behalf of the parties, the pleadings on record and the settled principles governing preventive detention, the following issues arise for consideration before this Court:

(i) Whether the Detaining Authority has adhered to the settled requirement of existence of a "live and proximate link" between the alleged last prejudicial activity attributed to the Petitioner and the passing of the impugned order of preventive detention or whether the delay occasioned in the decision-making process has snapped such nexus, thereby vitiating the subjective satisfaction recorded by the Detaining Authority;

(ii) Whether the non-supply of the copy of the detention proposal to the Petitioner constitutes a violation of the constitutional safeguard guaranteed under Article 22(5) of the Constitution of India by depriving the Petitioner of an effective opportunity to make a meaningful representation against the order of detention, and if so, whether the same renders the impugned detention order legally unsustainable; and

(iii) Whether the action of the respondent-authorities in directly resorting to the extraordinary mechanism of preventive detention, without first exhausting or duly considering the remedies available under the ordinary criminal law, is arbitrary, disproportionate and contrary to the settled principles governing preventive detention, thereby rendering the impugned detention order punitive in character and liable to be set aside.

50. The first issue that arises for consideration is whether the impugned order of preventive detention satisfies the settled constitutional requirement of existence of a "live and proximate link" between the alleged prejudicial activities attributed to the Petitioner and the necessity to direct his preventive detention.

51. It is by now well settled that preventive detention, being an extraordinary departure from the ordinary criminal justice system, derives its constitutional legitimacy only so long as the element of immediacy, proximity and urgency survives between the past conduct of the detenue and the imperative necessity to prevent him from acting in a prejudicial manner in future. The power should not be invoked as a substitute for punitive detention nor can stale or remote incidents be employed to justify curtailment of personal liberty without trial. The requirement of a "live and proximate link" is, therefore, not a mere procedural formality but constitutes the very foundation upon which the constitutional validity of a detention order rests.

52. The record reveals that the latest FIR relied upon against the Petitioner is FIR No. 551 dated 12.12.2024 registered at Police Station Zirakpur pertaining to alleged recovery of 4 grams of heroin. The Petitioner was arrested in the said case and was thereafter granted bail on 27.12.2024 by the learned Judicial Magistrate First Class, Dera Bassi. Admittedly, the proposal for preventive detention was forwarded by the sponsoring authority on 08.01.2025. To that extent, it may be observed that the initiation of the preventive detention process was proximate to the latest prejudicial activity and would not, by itself, be faulted. What however is noticeable is that the proposal is mooted immediately and soon after bail is granted. No attempt was made to challenge the order any further and all the circumstances that existed on the

date of allowing bail are deemed to be duly considered. The said material was found insufficient by the court of law to deny bail. One wonders, whether the power of preventive detention is a power to over-write the order granting bail or it is to be exercised as a measure of prevention in the wake of sufficient material strongly suggesting an offence to be committed, if not detained. Liberties of an individual are not at the pleasure of authorities and imprisonment, by any means necessary, is not an answer to administrative failures. However, the matter does not rest there.

53. What further assumes decisive significance is that despite the proposal having been initiated on 08.01.2025, the impugned detention order ultimately came to be passed only on 02.05.2025, nearly five months after the latest FIR and almost four months after the proposal itself. The detention order was thereafter modified on 13.05.2025 and eventually executed on 30.05.2025. Thus, while the authorities may have acted with some degree of promptitude in forwarding the proposal, the same promptitude completely vanished thereafter during the crucial stages of decision-making and execution.

54. The jurisprudence governing preventive detention consistently emphasizes that once the State forms an opinion that a person's activities are so imminently prejudicial as to warrant preventive detention, the authorities are expected to act with utmost expedition. Preventive detention is founded upon urgency and immediacy. If the alleged activities truly posed such grave danger to public order and public interest as to necessitate curtailment of liberty without trial, there was no justification whatsoever for the authorities to remain dormant for months together before passing and executing the detention order.

55. It also needs to be kept in mind that preventive detention aims to check further offence and the input has to be of likely commission of offence in

near future. While past conduct surely is relevant, however, material necessary for preventive detention is about his indulgence in a future offence as well. In the absence thereof, the power becomes punitive and not preventive.

56. It becomes very imperative on the part of the Detaining Authority as well as the Executing Authorities to remain vigilant and keep their eyes skinned, but not to turn a blind eye in passing the detention order at the earliest from the date of the proposal and executing the detention order, because any indifferent attitude on the part of the Detaining Authority or the Executing Authority would defeat the very purpose of the preventive action, turn the detention order into a dead letter and frustrate the entire proceedings. The constitutional validity of preventive detention cannot survive upon administrative lethargy or procedural complacency.

57. The explanation sought to be offered by the respondents regarding administrative processing, scrutiny of dossiers, meetings of the Screening Committee and consideration of multiple proposals does not satisfactorily explain the inordinate delay occasioned in the present matter. Administrative formalities, internal movement of files, constitution of committees or inter-departmental correspondence cannot dilute the constitutional safeguards available to a citizen against preventive detention. If the authorities genuinely perceived the Petitioner as an imminent threat requiring immediate preventive incarceration, it was incumbent upon them to act with corresponding urgency and diligence. The very fact that the authorities permitted months to elapse before crystallizing their subjective satisfaction substantially weakens the plea of immediacy and necessity now sought to be projected before this Court.

58. The adverse effect of delay in arresting a detenue has been examined by the Hon'ble Supreme Court in a series of decisions and it has been laid down in clear terms that unreasonable and unexplained delay in securing a detenue and detaining him vitiates the detention order. However, the same principles would equally apply in the case of delay in passing the order of detention from the date of the proposal. The common underlying principle in both situations is the existence of a "live and proximate link" between the grounds of detention and the avowed purpose of detention. Once such nexus stands weakened or snapped on account of unexplained delay, the detention order loses its preventive character and becomes legally unsustainable.

59. A three judge bench of the Hon'ble Supreme Court vide judgment dated 30.09.2022 in ***CRIMINAL APPEAL NO. 1708 OF 2022*** titled as ***Sushanta Kumar Banik v. State of Tripura & Others*** has observed that both the Detaining Authority and the Executing Authority are under a constitutional obligation to act with utmost promptitude and that unexplained delay either in passing or executing the detention order casts serious doubt upon the genuineness of the subjective satisfaction recorded by the authority. The underlying rationale is that a person who is permitted to remain at liberty for an extended duration after initiation of preventive detention proceedings can hardly be projected as posing such an imminent threat.

60. In the present case, the chronology of events unmistakably demonstrates absence of the requisite immediacy. The latest FIR was registered on 12.12.2024, the proposal was forwarded on 08.01.2025, yet the detention order came to be passed only on 02.05.2025 and executed thereafter on 30.05.2025. During this entire interregnum, the Petitioner admittedly remained available to the authorities and there is no allegation that he absconded, evaded

proceedings, violated bail conditions or obstructed investigation in any manner. The prolonged inaction on the part of the authorities materially erodes the very basis of the subjective satisfaction recorded for preventive detention.

61. This Court is, therefore, of the opinion that the delay occasioned in passing and executing the detention order has snapped the "live and proximate link" between the alleged prejudicial activities and the necessity for preventive detention. The material relied upon by the Detaining Authority had, by passage of time and administrative inaction, lost the urgency required to sustain an order of preventive detention. Consequently, the subjective satisfaction recorded by the Detaining Authority stands vitiated in law.

62. Accordingly, Issue No. (i) is answered in favour of the Petitioner and against the respondents.

63. The second issue which arises for consideration pertains to the scope and ambit of the constitutional safeguard guaranteed under Article 22(5) of the Constitution of India and, more particularly, whether the non-supply of the detention proposal to the Petitioner has the effect of vitiating the impugned order of preventive detention.

64. At the outset, it deserves to be noticed that Article 22(5) embodies one of the most valuable constitutional safeguards available to a person preventively detained. The constitutional mandate requires that the detenue be communicated the grounds of detention "as soon as may be" and further be afforded the earliest opportunity of making a representation against the order of detention. The right of representation guaranteed under Article 22(5) is not an illusory or ritualistic right but a substantive and enforceable constitutional protection intended to ensure that the detenue is placed in a

position to effectively challenge the legality, necessity and propriety of the detention order.

65. It is equally well settled that the right to make an effective representation necessarily carries with it the corresponding obligation upon the Detaining Authority to furnish all such documents, materials and particulars which weighed with the authority while arriving at its subjective satisfaction. The detenue cannot be expected to make a meaningful representation in vacuum. Unless the material forming the foundation of the detention order is supplied to him, the constitutional safeguard itself would stand substantially diluted.

66. At the same time, the law is equally settled that every document casually referred to or incidentally mentioned in the grounds of detention is not required to be supplied. The requirement under Article 22(5) extends only to those documents which are relied upon, foundational or which have materially influenced the mind of the Detaining Authority while recording its subjective satisfaction. A passing reference to a document in the detention order does not automatically elevate such document to the status of a relied-upon document. Similarly, this Court, while exercising power of judicial review in preventive detention matters, is not expected to sit in appeal over the sufficiency of the material or to substitute its own satisfaction for that of the competent authority. The limited inquiry of the Court is confined to examining whether the constitutional safeguards have been adhered to and whether the detenue was afforded a real and effective opportunity to represent against the detention.

67. Keeping the aforesaid principles in view, a perusal of the grounds of detention in the present case reveals that the Petitioner was sought to be preventively detained primarily on the basis of his repeated involvement

in cases registered under the NDPS Act, his propensity to engage in illicit trafficking and the apprehension recorded by the Detaining Authority that ordinary criminal law was insufficient to prevent him from indulging in similar activities in future. The grounds of detention further disclose that the proposal forwarded by the sponsoring authority constituted the very genesis of the preventive detention process and set the machinery of detention into motion.

68. It is an admitted position emerging from the record that while the Petitioner was furnished with the grounds of detention and certain relied-upon documents, the copy of the detention proposal itself was never supplied to him. The stand of the respondents is that the proposal merely constitutes an inter-departmental communication between the sponsoring authority and the Detaining Authority and, therefore, does not fall within the category of relied-upon documents required to be supplied under Article 22(5) of the Constitution of India.

69. I am unable to accept the aforesaid submission advanced on behalf of the respondents.

70. The detention proposal in the facts of the present case cannot be treated as a mere administrative formality or innocuous inter-departmental correspondence. Rather, it forms the very foundation upon which the preventive detention proceedings were initiated against the Petitioner. The proposal was not merely a forwarding communication; it contained the material particulars, allegations, antecedents and recommendations placed before the Detaining Authority for formation of subjective satisfaction. The proposal assumes even greater significance in the peculiar facts of the present case because the Petitioner had already been granted bail in the latest FIR dated

12.12.2024 and the respondents thereafter consciously chose to invoke the extraordinary mechanism of preventive detention.

71. The proposal would necessarily disclose what specific factors weighed with the sponsoring authority while recommending preventive detention despite the Petitioner having secured bail from a competent Court; what material was projected as indicative of imminent threat; whether there existed any fresh or supervening circumstances necessitating preventive detention and whether the ordinary remedies available under criminal law were considered inadequate.

72. The constitutional right to make a representation cannot be reduced to a hollow formality by selectively supplying documents while withholding the very material which triggered and shaped the detention process. In the absence of the detention proposal, the Petitioner was effectively deprived of the opportunity to demonstrate before the Advisory Board and the competent authorities that the proposal itself lacked immediacy, suffered from non-application of mind, relied upon stale material or failed to disclose any compelling necessity for preventive detention.

73. The prejudice caused to the Petitioner in the present case is neither imaginary nor speculative. As already noticed while deciding Issue No. (i), the proposal for preventive detention was forwarded shortly after the Petitioner had been granted bail in FIR dated 12.12.2024. The proposal, therefore, assumed critical significance for examining whether there existed a live and proximate nexus between the prejudicial activity and the necessity of preventive detention. In absence of the proposal, the Petitioner was deprived of the opportunity to effectively challenge the timing, contents, reasoning and basis of initiation of the preventive detention process itself.

74. The contention of the respondents that the proposal was merely an inter-departmental communication is overly simplistic and contrary to the substance of the constitutional safeguard embodied under Article 22(5). Merely because a document originates as an internal communication would not denude it of its character as a relied-upon or foundational document if the same materially contributed to formation of the subjective satisfaction of the Detaining Authority. Constitutional protections should not be permitted to be defeated by assigning administrative nomenclature to documents which, in essence, form an integral part of the detention process.

75. The Court is conscious that not every internal note or administrative correspondence may require disclosure. However, where a document forms the basis of initiation of preventive detention proceedings and has a direct bearing upon the formation of subjective satisfaction, the same transcends the realm of a mere internal communication and acquires the character of an essential document required to be furnished to the detenue. Preventive detention jurisprudence has consistently emphasized that procedural safeguards must receive strict construction because the liberty of a citizen is placed in peril without the benefit of ordinary criminal trial. Any infraction, which impairs the detenue's right to make a meaningful and effective representation, strikes at the very root of the detention order.

76. I am thus of the opinion that the non-supply of the detention proposal in the present case resulted in denial of an effective opportunity of representation to the Petitioner and thereby constituted a violation of the constitutional mandate contained under Article 22(5) of the Constitution of India. The procedural safeguard having been breached, the continued detention of the Petitioner cannot be sustained in law.

77. Accordingly, Issue No. (ii) is answered in favour of the Petitioner and against the respondents.

78. The third issue which arises for consideration pertains to the legality and propriety of the respondents invoking the extraordinary provisions of preventive detention despite the availability of remedies under the ordinary criminal law. The question that consequently falls for determination is whether the impugned detention order retains its preventive character or whether, in substance, it amounts to a punitive measure employed to circumvent the ordinary criminal process and judicial orders granting bail.

79. At the very threshold, it requires to be reiterated that preventive detention occupies an exceptional space within constitutional jurisprudence. It authorizes curtailment of personal liberty without trial and without adjudication of guilt. For that very reason, constitutional courts have repeatedly emphasized that such power must be exercised with extreme circumspection, sparingly, and only where the ordinary mechanisms of criminal law are genuinely found inadequate to address the apprehended threat. Preventive detention is not intended to supplant the criminal justice system nor to operate as a parallel mode of incarceration whenever the prosecuting agency perceives ordinary law to be inconvenient or insufficiently expeditious.

80. The distinction between punitive detention and preventive detention is not merely semantic but foundational. Punitive detention follows adjudication for a past act, whereas preventive detention is justified solely upon the imperative necessity to prevent future prejudicial conduct. Once the extraordinary power of preventive detention is employed merely because ordinary criminal law has not yielded the desired custodial outcome, the

detention ceases to be preventive and assumes a punitive complexion constitutionally impermissible in law.

81. In the present case, the material on record unmistakably reveals that the Petitioner was already facing prosecution in the FIRs relied upon by the Detaining Authority and, significantly, had been granted bail. The latest FIR relied upon against the Petitioner is FIR No. 551 dated 12.12.2024 registered at Police Station Zirakpur, in which the Petitioner was granted bail on 27.12.2024 by the learned Judicial Magistrate First Class, Dera Bassi. The grounds of detention do not disclose that the Petitioner violated any condition of bail, attempted to abscond, tampered with evidence, threatened witnesses or engaged in any overt act subsequent to grant of bail demonstrating imminent necessity for preventive detention. The absence of any allegation regarding misuse of liberty assumes considerable significance. Once a competent criminal court had enlarged the Petitioner on bail, it was incumbent upon the respondents to demonstrate by cogent material that the Petitioner had thereafter indulged in conduct necessitating invocation of extraordinary preventive powers. However, the grounds of detention are conspicuously silent on any such subsequent conduct.

82. The record further discloses that the authorities possessed ample remedies under the ordinary criminal law, yet none of the same were either exhausted or even meaningfully considered before resorting to preventive detention. If the respondents were genuinely of the view that the Petitioner posed a continuing threat or was likely to engage in organized criminal activity, they could very well have sought cancellation of bail before the competent court upon demonstrating misuse of liberty or emergence of supervening circumstances. They could have sought imposition of stringent bail conditions,

accelerated investigation or invoked the provisions of substantive penal law if the allegations indeed disclosed organized criminal activity. None of these ordinary legal mechanisms appear to have been pursued with seriousness.

83. Rather, what emerges from the record is that immediately after the Petitioner secured bail, the machinery of preventive detention was set into motion. Such sequence of events lends substance to the contention advanced on behalf of the Petitioner that the impugned detention order was intended not to prevent future conduct based on any fresh or imminent threat, but to nullify the effect of the judicial order granting bail and to secure continued custody through executive action.

84. The constitutional courts have consistently frowned upon such exercise of power. In ***Rekha v. State of Tamil Nadu reported as (2011) 5 SCC 244***, the Hon'ble Supreme Court unequivocally held that preventive detention is not to be used as a substitute for ordinary criminal law and that where ordinary law is sufficient to deal with the situation, recourse to preventive detention becomes wholly unjustified. The Hon'ble Supreme Court cautioned that detention orders passed merely because a person has secured bail in criminal proceedings amount to a subversion of the constitutional guarantee of personal liberty.

85. Similarly, in ***Ameena Begum v. State of Telangana (supra)***, the Hon'ble Supreme Court reiterated that preventive detention must remain a measure of last resort and should not be routinely employed in situations where the ordinary criminal justice framework is capable of addressing the alleged conduct. The Court emphasized the necessity of proportionality, immediacy and genuine preventive purpose before curtailing liberty without trial.

86. This Court in ***Sadha Ram @ Bhajna Ram v. State of Haryana (supra)*** had also reiterated that preventive detention cannot be transformed into a convenient substitute for ordinary prosecution. The Court had observed that the existence of alternate legal remedies and the absence of compelling material establishing their inadequacy would render the detention arbitrary, excessive and punitive in character.

87. Applying the aforesaid principles to the facts of the present case, this Court finds that the impugned detention order fails to satisfy the constitutional threshold necessary to justify invocation of preventive detention. The grounds of detention repeatedly refer to apprehensions and generalized allegations regarding future conduct, yet fail to disclose why ordinary legal remedies were considered insufficient. There is no material demonstrating that the prosecuting agency attempted cancellation of bail or resorted to any other statutory remedy prior to invoking preventive detention.

88. Equally significant is the fact that the allegations relied upon by the respondents pertain predominantly to cases involving small and intermediate quantities and not to any demonstrated operation of a large-scale organized narcotics syndicate. Despite this, the grounds of detention mechanically characterize the Petitioner as an “organiser” and “kingpin” involved in “organised trafficking” without any substantive material supporting such conclusions. The exaggerated terminology employed in the detention order, unsupported by corresponding factual material, further reinforces the impression that the extraordinary provisions of the PITNDPS Act were invoked to secure continued incarceration rather than to address any genuine preventive necessity.

89. Preventive detention would not be sustained upon a mere suspicion, administrative convenience or generalized apprehension. The constitutional guarantee under Articles 21 and 22 demands that the State demonstrate compelling necessity before depriving a person of liberty without trial. Where ordinary criminal law provides adequate remedies, the State cannot bypass judicial scrutiny and directly invoke preventive detention merely because the accused has secured bail or because prosecution under ordinary law may involve procedural rigours.

90. This Court is therefore constrained to hold that the action of the respondent-authorities in directly resorting to preventive detention, without exhausting or even duly considering the remedies available under ordinary criminal law, is arbitrary, disproportionate and contrary to the settled principles governing preventive detention jurisprudence. The impugned detention order, viewed in totality, assumes a distinctly punitive character and cannot be sustained within the constitutional framework governing preventive detention.

91. Accordingly, Issue No. (iii) is answered in favour of the Petitioner and against the respondents.

92. In view of the above, I am of the opinion that the impugned detention order is non est and violative of Fundamental Rights of the Petitioner. Thus, the present petition is allowed and the impugned detention order mentioned in para 1 of the present judgment is quashed.

(VINOD S. BHARDWAJ)
JUDGE

13.05.2026
Sumit Gusain

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No