



2026:AHC:159450-DB

Reserved On :- 21.07.2026

Delivered On :- 31.07.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 435 of 2026

Gurmel Singh

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sunil Vashisth
Counsel for Respondent(s)	:	A.S.G.I., G.A., Shiv Kumar Pal

Court No. - 43

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

(Delivered by Hon'ble Siddharth, J.)

1. Heard Sri Sunil Vashisth, learned counsel for the petitioner; Sri G.N. Kanaujiya, learned A.G.A.-I for the State; Sri S.K. Pal, learned Deputy Solicitor General of India assisted by Sri Prem Shankar Prasad, learned counsel for Union of India and perused the record of the State Government.

2. The writ petition has been filed praying for following reliefs :-

"(i) A writ, order or direction in the nature of Habeas Corpus commanding and directing to the respondents to produce the corpus (Gurmel Singh) before this Hon'ble Court and to set him at his liberty forthwith, quashing the impugned detention order dated 2-1-2026 () passed by respondent no. 1 under Section 3(1) of the PIT N.D.P.S. Act (annexure no. 1 to this petition.)

(ii) Any other relief this Hon'ble court deem fit in facts and circumstances of the case.

(iii) Award the cost of petition."

3. The brief facts of the case are that the impugned detention order the respondent no. 1 has found involvement of petitioner in 3 cases of N.D.P.S. Act in the year 2024. The first case against petitioner was registered at Case Crime No. 83 of 2024 under Section 17 C / 29 of N.D.P.S Act, P.S.- G.R.P.

Guwahati, Assam. As per allegation on 02.04.2024 the petitioner was arrested along with 2 other accused persons namely Jasveer Singh, Jagjeet Singh @ Kapil in Rajdhani Express and illegal Opium of 8 Kg. 25 grams was recovered from their possession. As per allegation during interrogation confession was made by accused that they have brought recovered Opium from Imphal Manipur for supplying it in Haryana and Punjab.

4. As per allegation in aforesaid case charge sheet was submitted against petitioner and others and bail application of petitioner in said case was allowed by the Hon'ble High Court vide order dated 9-5-2025. It has further alleged in impugned order that after getting bail the petitioner along with his associate Jagjeet Singh @ Kapil agreed to purchase 3 Kg. Opium and 2.50 gram heroine from accused, Vimol Karmakar and paid Rs. 5 lacs in advance. Further allegation are that for the delivery of Narcotics substance, Opium and Heroine, the wife of Vimol Karmakar, namely, Priyanka Das, came to Bareilly but on 6-7-2025 she was arrested by the ANTF Unit Bareilly and from her possession 211 gram heroine was recovered. As per allegation after her confession search of the house of Jagjeet Singh was made and 265 gram Opium was recovered. The F.I.R. of said incident was lodged on 6-7-2025 at case crime no. 719 of 2025 under section 8 / 18 / 21 / 29 of N.D.P.S. Act P.S. Baradari, District Bareilly.

5. During investigation of Case Crime No. 719 of 2025 the alleged involvement of petitioner was found after confessional statement of co-accused was recorded. There was no direct involvement of the petitioner in alleged offence and alleged narcotic substance was not recovered from his possession. In the present case charge sheet has submitted and accused is trying to get the bail.

6. As per impugned order the 3rd case against petitioner is case crime no. 342 of 2025 under section 8 / 18 / 20 / 29 / 60 N.D.P.S. Act registered at P.S. Chait, District Mathura. On 17-7-2025 the petitioner along with others was arrested and during interrogation he made confession about his alleged involvement. The bail application of petitioner was allowed on 7-11-2025 in aforesaid case. As per impugned detention order the S.S.P. District Mathura sent proposal and record of the aforesaid criminal cases of petitioner to the Screening Committee of Government of U.P. Lucknow and after examining the said record on 3-12-2025 the screening committee recommended detention of petitioner for the period of one year under section 3(1) of PIT

N.D.P.S. Act.

7. Learned counsel for the petitioner submits that after aforesaid recommendation of screening committee on 02.01.2026 the respondent no. 1 has passed the impugned detention order, which is illegal, improper and arbitrary. The aforesaid impugned detention order dated 2-1-2026 was served on petitioner on 2-1-2026 but he was not properly and effectively informed about his right to file representation before the Advisory Board as well as Secretary Revenue Department / Finance Ministry of Government of India and Secretary / Chief Secretary of department of Home, Government of U.P. Lucknow. The impugned order detaining the petitioner is illegal and arbitrary inasmuch as the material forming the basis of the opinion of the competent authority (proposal) of the sponsoring authority and recommendation of the screening committee was not supplied to the petitioner which violates his Constitutional safeguard.

8. The report of sponsoring authority and screening committee was not supplied to the petitioner and thereby the respondents have prevented the petitioner (detenue) from making an effective representation. Failure to supply the documents / reports (relied upon by the detaining authority) to the detenue makes the detention order illegal and unconstitutional. The undue delay was caused by the Government and detaining authority in deciding the recommendation made by screening committee. It is relevant to mention here that the screening committee on 3-12-2025 made recommendation to the Secretary (Home) Government of U.P. but impugned detention order was passed after a month on 2-1-2026.

9. From the perusal of detention order it is explicit that there is unreasonable and unexplained delay between the proposal for the detention and the actual issuance / passing of the impugned detention order which violates the law and right to liberty of petitioner. The authorities have failed to record subjective satisfaction to show a "live and proximate link" between the detenue's alleged past acts and the necessity of detention. The petitioner has been illegally detained in pursuance of impugned detention order. The impugned order is illegal as it does not contains the compelling reason for passing the detention order while the petitioner was already in judicial custody. The authorities have served the impugned detention order on petitioner without informing him about his right to make representation to the authority which was mandatory and thus it is manifest from record that

the aforesaid mandatory requirement was not properly explained and informed to the petitioner. Merely mentioning in detention order about rights of moving representation by petitioner would not amount due information to the detainee.

10. As per impugned order the last case being case crime no. 719 of 2025 was registered against petitioner on 6-7-2025 but a perusal of detention order makes it clear that the screening authority after a period of about 5 month on 3-12-2025 made recommendation for passing the detention order. The long period passed without any other F.I.R. or incident, concludes that there was not proximate link between the detainee's alleged past acts and the necessity of detention. While passing the impugned detention order the respondent no. 1 based on the police report as well as on recommendation of screening authority without recording their subjective satisfaction. The detaining authority was simply influenced by the report of screening committee and not recorded his own subjective satisfaction.

11. A perusal of the impugned order makes it clear that the respondent no. 1 has passed the impugned order acting in arbitrary and mechanical manner without recording his own independent satisfaction. Petitioner is not well educated. He has got education up to class second only. Thus he is not able to understand the details mentioned in the impugned detention order. The contents of detention order and his right of moving representation were not properly explained to the petitioner. The impugned detention order passed against the petitioner is illegal and arbitrary as neither the whole record was provided to him nor he was apprised from his legal right to move representation to the government. The impugned detention order does not contains the necessity to pass the detention order when he is implicated in cases under the ordinary criminal law. No reason has given in impugned order to detain the petitioner under preventive detention. The grounds of detention are vague and non specific without giving precise indication of the facts or material relied upon.

12. Effective opportunity was not provided to the petitioner to make representation before the concerned authority. The detention order has been passed mechanically on the basis of irrelevant material without applying independent judicial mind. The detention order is punitive in nature whereas the PIT N.D.P.S. Act is only preventive and cannot be used as a substitute for regular criminal trial. The material relied upon in the dossier are not

cogent and credibly justify that in future the petitioner is likely to indulge in illegal traffic in narcotic drugs or psychotropic substances. The detention order is based on mere suspicion without any real threat. The detention order amounts to deprivation of liberty without following the due process of law and is contrary to the principles of legality, reasonableness and non arbitrariness enshrined in articles 21 of the Constitution of India. The petitioner has not been produced before the advisory board after apprising him his right of hearing and no opportunity of hearing was provided to him before the advisory board. The detention order is not in accordance with law inasmuch as the grounds of detention must be specific, cogent and directly connected with the necessity to prevent the prohibited activity as such the detention order is liable to be quashed. Petitioner has not been convicted by the court of law for the alleged offence under the provisions of N.D.P.S. Act. The detention order is in utter violation of section 3(2) of PIT N.D.P.S. Act inasmuch as the order of detention was not forwarded to the Central Government within 10 days from the date of passing of said order.

13. Learned A.G.A has filed counter affidavit on behalf of respondent no. 3 and has submitted that vide letter No. 356/Judicial Assistant/NDPS Act/2025-26 dated 02.12.2025 issued by the Additional Commissioner (Administration), Agra Division, Agra, a request was made to convene a virtual meeting of the Screening Committee on 03.12.2025 at 11:45 AM in the auditorium located at the Commissioner's office. The said letter from the Additional Commissioner (Administration), Agra Division, Agra was received via email. Accordingly, a virtual meeting of the Screening Committee was held on 03.12.2025 at 11:45 AM under the chairmanship of the Commissioner, Agra Division, Agra. The following members participated in the said meeting: 1. Chairman - Divisional Commissioner, Agra Division Agra, 2. Deponent/District Magistrate, District Mathura 3. Sponsoring officer (प्रायोजक प्राधिकारी)/S.S.P. Mathura District Mathura 4. Member - Additional Director of Prosecution, Agra Region, Agra, 5. Member - Deputy Commissioner of Excise, Agra Region, Agra. The Screening Committee, reviewed and examined the proposal of the sponsoring authority submitted before it, along with the petitioner's criminal history, registered charges against the petitioner, brief facts regarding the charges, and supporting documents related to the charges, After a thorough review of the brief facts of the registered charges against the petitioner and an in-depth discussion of the adverse effects of the petitioner's actions on

society, after considering and evaluating the matter, unanimously expressed its subjective satisfaction regarding the necessity of taking preventive action under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs & Psychotropic Substances Act, 1988, and thereby recommended that the proposal to detain the petitioner for one year be sent to the Government as per rules. The report of the Screening Committee meeting was prepared unanimously by the Chairman - Divisional Commissioner, Agra Region, Agra, which was received through a special messenger and duly signed by every member.

14. A letter from the S.S.P. Mathura, bearing reference number R/SSP/10/2025 Dated 05.12.2025, along with annexures, was received at the office of Deponent/District Magistrate, District Mathura. By this letter dated 05.12.2025, the S.S.P. Mathura requested the District Magistrate, Mathura to forward the report of the Screening Committee along with annexures to the State Government. The Deponent/District Magistrate, Mathura forwarded the letter of SSP Mathura along with Screening Committee Report with Annexures was forwarded to the Principal Secretary, Home (Confidential) Section-5, Government of Uttar Pradesh, Lucknow, through a special messenger vide Letter No. 3128/Judicial Assistant/2025 dated 05.12.2025. A total of 09 photocopies of the annexures received from the S.S.P. Mathura, along with the report of the Screening Committee, were forwarded through a special messenger.

15. On 02.01.2026, an order No. 958(1)/20/2025-CX-5(PIT-NDPS) dated 02.01.2026 was passed by Secretary, Home and Gopan, Government of U.P., Lucknow, along with the grounds of detention dated 02.01.2026, was received via email, ordering the petitioner's detention for a period of one year. The said order, along with the grounds of detention dated 02.01.2026, and a total of 3 sets of the order from the Secretary, Home and Gopan, Government of U.P., Lucknow, with annexures, were received through a special messenger. The Secretary, Home and Gopan, Government of U.P. Lucknow, instructed that one set to be provided to the petitioner within 5 days and his signature and thumb impression has to be obtained on the second copy, and the third copy be kept in the District Jail, Bareilly, for jail records. Instructions were also received to read and explain to the petitioner, the contents of the detention order as well as the grounds of detention was also read and explained to the Petitioner. Accordingly, one set was provided to the petitioner through a special messenger, the petitioner's signature and

thumb impression were obtained on the second copy, and the third copy was kept in the District Jail, Bareilly, for jail records. The information of the detention order was served on the petitioner's wife namely Smt. Simran Kaur and her signatures were also obtained. After obtaining the petitioner's signature and thumb impression, the report of the Jail Superintendent, Bareilly, was provided to the Deponent/District Magistrate on 04.01.2026 and Deponent/District Magistrate sent his report with all receiving enclosures vide letter No. 3228(1)/JA/2026 dated 05.01.2026 to Home (Gopan) Section-5 of the Home Department, U.P. Government, through a special messenger.

16. It is relevant to mention here that the Petitioner has not moved any representation against the detention order dated 02.01.2026 but his wife Smt. Simran Kaur has moved a representation before the District Magistrate, Mathura, whereas the representation had to be moved before the Home Secretary, Government of U.P. Lucknow. On the said reason the Deponent/District Magistrate Mathura has disposed the aforesaid representation on 08.02.2026 by letter No.3389/JA/2026 moved by the wife of the Petitioner as the representation was not moved through the proper channel. The order dated 08.02.2026 passed by the District Magistrate Mathura/deponent by which the representation moved on behalf of the wife of the Petitioner was rejected, was also served on the Petitioner through the Jail Authority.

17. On 25.01.2026, through an email from the Special Secretary, Government of Uttar Pradesh, vide letter No. 48/83/2/15/2025-CX-5, Home (Confidential) Section-5, the petitioner was directed to appear before the Hon'ble U.P. Advisory Board (Detentions), High Court of Judicature at Allahabad, Lucknow, for a hearing regarding his detention on 28.01.2026, at 3:00 PM. In compliance with this, the petitioner appeared before the Hon'ble U.P. Advisory Board (Detentions), on the scheduled date and time, where the U.P. Advisory Board (Detentions) confirmed the detention order dated 02.01.2026. It was informed through a letter No. 75/20/2025-2026CX-5(PIT-NDPS) dated 09.02.2026, received via email from the Secretary, Government of Uttar Pradesh, that the detention order No. 958(1)/20/2025-CX-5(PIT-NDPS) dated 02.01.2026, passed against the detainee, Shri Gurmail Singh, was placed before the U.P. Advisory Council (Detentions), Lucknow Bench. Upon consideration of the matter, the Advisory Council expressed its opinion that there are sufficient grounds for the detention of the

said detainee. In view of the opinion rendered by the Advisory Board, the State Government, exercising powers under Section 9(f) and Section 11 of the PIT-NDPS Act, 1988, has confirmed the detention order and directed that the detainee shall remain in custody at District Jail, Bareilly, for a period of one year from the date of service of the original order.

18. Counter affidavits have also been filed on behalf of respondent nos. 1, 2 and 4 to the same effect.

19. Rejoinder affidavits have also been filed to the aforesaid counter affidavits by the petitioner.

20. A counter affidavit has been filed on behalf of respondent no. 5, Union of India through Secretary, Ministry of Finance, Department of Revenue, New Delhi stating that no representation addressed to the Central Government has been ever received in PITNDPS Division till date. The petitioner has stated in writ petition that he was not informed about his right to make a representation and the report under Section 3 (2) was not forwarded to the Central Government within prescribed period of 10 days. It is necessary to mention here that it is clearly stated in para 2 of the ground of detention, the petitioner was duly informed his right to submit a representation but it was not forwarded to the Central Government till the date. On 02.01.2026 the detention order was issued by the Secretary, Government of Uttar Pradesh against Gurmel Singh under Section 3(1) of the PITNDPS Act, 1988, on the same day report was forwarded to the PITNDPS Division by the State Government under Section 3 (2) of PITNDPS Act which is within the 10 days limit which is prescribed in Act (Annexure R-1). On 14.01.2026 Central Government received the report sent by State Government and same has been taken on record. On 11.02.2026 Central Government received the confirmation order dated 09.02.2026 confirming the detention of Gurmel Singh for a period of one year from the date of his detention i.e., 04.01.2026.

21. After considering the rival pleadings on record and arguments advanced before us, we find that the Detenu, Gurmel Singh, who has been preventively detained pursuant to Detention Order No. 958 (1) / 20 / 2025-CX-5 (PIT NDPS) dated 02.01.2026, issued under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PIT NDPS Act). The grounds of detention was served upon the

Detenu on 04.01.2026. The underlying allegations in the impugned detention order pertain to involvement in the following three cases:- (i) Case Crime No. 83 / 2024, under Sections 17(C) / 29 NDPS Act, P.S. G.R.P. Guwahati, Assam, (ii) Case Crime No. 719 / 2025, under Sections 8 / 18 / 21 / 29 / 60 NDPS Act, P.S. Baradari, District Bareilly, (iii) Case Crime No. 342 / 2025, under Sections 8 / 18 / 20 / 29 / 60 NDPS Act, P.S. Jait , District Mathura.

22. The last alleged incident reported against the Detenu took place on 17.07.2025. As of the date of the impugned order (02.01.2026), the Detenu was already on bail in Case Crime No. 83 / 2024 and Case Crime No. 342 / 2025. However, in respect of Case Crime No. 719 / 2025, the Detenu was in judicial custody (jail) and had not been granted bail. The Ground V of the detention grounds (find place at page 36 of writ petition) merely records a vague statement: "यह कि आपके द्वारा पुनः जमानत प्राप्त करने का प्रयास किया जा रहा है" ("that attempt is being made by you to obtain bail again"). The Detaining Authority failed to record any cogent material or subjective satisfaction demonstrating an imminent/real possibility of the Detenu's release on bail, or why preventive detention was imperative while he was already in judicial custody. No material was brought on record and considered by detaining authority that there is real possibility of release of petitioner on bail.

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

"7. It would be apposite at this stage to take note of the statutory regime of the Act of 1988. Section 3(1) thereof empowers the authorized officers, either of the Central Government or of a State Government, to detain any person with a view to prevent him/her from engaging in illicit traffic in narcotic drugs and psychotropic substances. Section 3(2) requires a State Government that passes such a detention order to forward a report of the same to the Central Government within ten days. Section 3(3) mandates communication of the grounds on which the detention order has been made to the detenu as soon as may be after the detention, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days from the date of detention. The sub-section records that this requirement is for the purposes of Article 22(5) of the Constitution, which mandates such communication as soon as may be. Section 6 of the Act of 1988 provides that the grounds of detention are severable and an order of detention shall not be deemed to be invalid or inoperative merely because one or

some of the grounds is either found to be vague, nonexistent, irrelevant or not connected with such persons or is invalid for any other reason. Section 6 specifically records that where a person has been detained pursuant to an order of detention under Section 3(1), which has been made on two or more grounds, such order shall be deemed to have been made separately on each ground. This indicates that the order of detention must be accompanied by the 'grounds of detention' made by the detaining authority itself. Section 11 of the Act of 1988 speaks of the maximum period of detention and states that the same may be extended up to 2 (two) years from the date of detention.

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

9. On similar lines, in Rekha v. State of Tamil Nadu, (2011) 5 SCC 244, a 3-Judge Bench of this Court affirmed that, where a detention order is passed against a person already in jail, there should be a real possibility of the release of that person on bail, that is, he must have moved a bail application which is pending. It was observed that if no bail application is pending it logically followed that there is no likelihood of the person in jail being released on bail. The Bench, however, pointed out that the exception to this Rule would be where a co-accused, whose case stood on the same footing, was granted bail. The Bench cautioned that details in this regard have to be recorded, otherwise the statement would be mere

ipse dixit and cannot be relied upon. The law laid down in Rekha (supra) was reiterated and followed in Huidrom Konungjao Singh v. State of Manipur, (2012) 7 SCC 181.

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

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

be redressed at the earliest by the Union Government in the larger interest of the criminal justice delivery system.

25. If we consider the aforesaid impugned orders passed by respondent no. 1 in the light of the settled legal as laid down by the Apex Court in the case of ***Mortuza Hussain Choudhary (supra)***, we find that the orders passed against the petitioner cannot be sustained as per the settled law. Respondent No. 1 has paid mere lip service to the mandatory requirements of law. He has mechanically mentioned that he is satisfied that petitioner is required to be detained so as to prevent him from engaging in illicit trafficking of narcotic drugs and psychotropic substances. Such 'satisfaction' was required to have been spelt out after application of mind by reference to separate grounds of detention made by the detaining authority, which has not been done. The order impugned does not shows any application of mind and no "grounds of detention" have been recorded therein.

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

27. Reliance is placed on the judgment of ***Rekha v. State of Tamil Nadu, (2011) 5 SCC 244***, wherein the Hon'ble Supreme Court held that if a person is already in custody and there is no real possibility of his release on bail, a preventive detention order passed against him is invalid due to non-application of mind.

28. The last alleged incident was recorded on 17.07.2025, whereas the impugned detention order was passed on 02.01.2026, after an unexplained, inordinate delay of about 5½ months from last reported incident. Preventive detention is an extraordinary measure intended to prevent immediate and imminent illicit activity, not a penal mechanism. An unexplained delay of over five months completely snaps the "live link" between the alleged prejudicial activity and the necessity for passing a preventive order. The Detaining Authority [Secretary (Home), Government of U.P.] acted as a mere rubber stamp by mechanically reproducing the dossier/proposal submitted by the Sponsoring Authority (District Magistrate, Mathura) without recording independent subjective satisfaction. The authority failed to assess whether ordinary penal law (NDPS Act, 1985) was insufficient to meet the situation. "Reasons to believe" must rest on reliable material

showing a real likelihood of the Detenu re-indulging in illicit traffic upon release on bail.

29. In the judgment of ***Vinod Singh v. District Magistrate, Dhanbad, Bihar, (1986) 4 SCC 416*** the Supreme Court affirmed that order preventive detention cannot be passed mechanically without verifying the necessity of detention in light of actual custody status. ***Union of India v. Paul Manickam, (2003) 8 SCC 342*** the Apex Court reiterated that subjective satisfaction must be based on cogent material, specifically addressing whether ordinary law is inadequate.

30. The report of the Screening Committee and the order of the Advisory Board reveal a complete lack of independent assessment. Both acted mechanically without recording independent subjective satisfaction as mandated by law. Section 3(2) of the PIT NDPS Act which mandates that upon making a detention order, the State Government shall, within 10 days, forward a report in respect of the order to the Central Government. The impugned order was passed on 02.01.2026. The statutory 10-day period expired on 12.01.2026. As admitted by Respondent No. 5 (Union of India) in Para 6 of their Counter Affidavit, the Central Government received the report on 14.01.2026 (12 days later). Compliance with Section 3(2) is mandatory, and a breach thereof vitiates the detention order.

31. In view of the above consideration, we are of the view that the impugned detained order dated 02.01.2026 passed by the respondent no. 1 under Section 3(1) of the PIT NDPS Act deserves to be quashed and is hereby quashed.

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

33. Certified copy of this order shall be issued to the petitioner on payment of usual charges today.

34. The Habeas Corpus Writ Petition stands allowed.

July 31, 2026
Rohit

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