



2026:AHC:210410-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 954 of 2026

Mohammad Haroon

.....Petitioner(s)

Versus

Union Of India And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Km. Ashra, Mohd. Samiuzzaman Khan, Saddam Husain, Sajjad Khan
Counsel for Respondent(s)	: Kameshwar Singh, A.S.G.I., G.A.

Along With:

1. Habeas Corpus Writ Petition No. 1306 of 2026:

Ramendra Singh @ Guddu

Vs.

Union of India and 3 others

2. Habeas Corpus Writ Petition No. - 1075 of 2026

Yash Raghav

Vs.

Union Of India And 4 Others

3. Habeas Corpus Writ Petition No - 1077 of 2026

Harendra Pratap Singh @ Harendra Pal Singh

Vs.

Union Of India And 4 Others

Court No. - 42

HON'BLE ATUL SREEDHARAN, J.

HON'BLE ACHAL SACHDEV, J.

1. Heard on behalf of the petitioner, Sri Samiuzzaman Khan, Advocate assisted by Sri Saddam Khan, Advocate, Ms. Ashra, Advocate and Sri Sajjad Khan, Advocate, Sri Balram Govind Tripathi, learned counsel for Union of India and Sri Durg Vijay Singh, learned Additional Advocate General for the State.

2. There are four petitions filed by four different petitioners, who are

all proceeded against under the National Security Act, 1980 (hereinafter referred to as NSA), by way of different orders. However, as the predicate case, which is Case Crime No. 206 of 2026, registered on 11.05.2026 at P.S. Anoopshahr, District Bulandshahr, is the same in all the four cases and all the petitioners are co-accused in the said case.

3. In order to appreciate the factual aspects relating to these cases, the order proceeds by taking Habeas Corpus Writ Petition No. 954 of 2026 (Mohammad Haroon Vs. Union Of India And 5 Others) as the lead case. At page-51 of the said petition, is the factual aspect of the criminal case.

4. The case registered by the police is that, on 10.05.2026, upon a quality control operation in the year 2026-27, the complainant received a secret information, on the basis of which, a search team reached Kasba Anoopshahr at 3.30 pm near Police Station Ganga Bridge, where a truck moving in suspicious circumstances, which was covered with a tarpaulin, coming from Bulandshahar bearing registration no. UP-63-T-8665 being driven by driver Aslam, who informed the team that there are 525 bags of urea manufactured by IFFCO. The driver was purportedly not carrying any bill or voucher with him and the truck was headed towards Sambhal. He further informed that the material was loaded on to his truck from PCF Buffer at Nayi Mandi, Bulandshahar. It is further the case of the police that five minutes thereafter, another truck bearing registration no. UP13-T-9565, was also coming down on the same road and upon inspection of which, the driver Sher Ali informed the team that there are 525 bags of IFFCO urea, for which he did not have any bill or voucher and the truck was headed towards Tanda, District Rampur. Ten minutes thereafter, third truck bearing registration no. UP38-T-2352 arrived. Upon inspection, the truck was also found to be carrying 525 bags of

urea manufactured by IFFCO. None of these trucks were carrying any bill or voucher justifying its transport from the godown.

5. It was also stated in the first information report that the truck drivers informed the team that the fertilizers belong to Mohammad Haroon. Along with the third truck, one Swift car bearing registration no. UP14-FR-7227, in which the petitioner was travelling, was identified by the driver of the truck, upon which the vehicle was stopped by the team and the petitioner was taken into custody by the police. The petitioner informed the police that the value of the urea was about Rs. 5.50 lacs, for which the petitioner had paid Rs. 4.50 lacs to one Mr. Raghav, in cash and one lac was paid to Mr. Harendra Pratap Singh through digital mode by scanning QR code of Mr. Harendra Pratap Singh. It is also the case of the police that the petitioner, in his statement informed the police that at the time when the urea was loaded at the PCF godown, Mr. Raghav and District Controller of PCF were present there. Thereafter, it was the opinion of the police that the urea was being transported and smuggled in an unlawful manner with the intention of selling it at a higher rate in the open market in the district, with the objective of causing unlawful gain to the private party, concomitant with an unlawful loss to the State. Pursuant to the criminal case being registered against the petitioner herein, the same was subsequently followed up with the order of detention, which is dated 23.05.2026, and he was taken into detention for a period of one year. It is also stated by the petitioners that the Advisory Board has rejected their representations. The case put forth by the petitioners falls within a very narrow compass.

6. It is their contention that they could not have been proceeded under the NSA. In order to buttress the submission, they have referred to Section 3 of the NSA with specific reference to sub-section 2 and its explanation, which reads as hereunder:

"3. Power to make orders detaining certain persons.—

(2) The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of Public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained.

Explanation.—For the purposes of this sub-section, "acting in any manner prejudicial to the maintenance of supplies and services essential to the community" does not include "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community" as defined in the Explanation to sub-section (1) of section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (7 of 1980), and accordingly, no order of detention shall be made under this Act on any ground on which an order of detention may be made under that Act."

7. From the explanation, it is clear that the phrase "acting in any manner prejudicial to the maintenance of supplies and services essential to the community" as used in sub-section 2 of Section 3 does not include "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community", as defined in explanation to sub-section (1) of Section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as PBMSEC Act). The said explanation also prohibited that no order of detention shall be made under the NSA on any ground on which an order of detention may be made under the PBMSEC Act.

8. Learned counsel for the petitioners has argued that the provision for detention for an act of blackmarketing is specifically provided under the PBMSEC Act, which is a Special Act, in the light of which the NSA is the General Act. In other words, it is impressed upon this

Court that what is provided in the Special Act shall prevail over the General law, which is based on maxim of ***generalia specialibus non derogant*** or the General Law does not act in derogation to the Special Law. Therefore, the case of the petitioners is that where the Special Law being the PBMSEC Act exists to provide for preventive detention in cases of blackmarketing, the provision of the NSA cannot be interpreted in a contorted manner to take the petitioners into preventive detention under the General Law.

9. In order to show malice, learned counsel for the petitioners have also stated that the maximum term of detention under the PBMSEC Act is only six months, whereas the maximum term for which a person can be held in detention under the NSA, is for a period of one year.

10. Learned counsel for the State was requested by this Court to consider the said objection as a preliminary issue and address the Court on that, satisfy the Court on the said issue that the Special Act notwithstanding the detention of the petitioner under the National Security Act is justified. Learned counsel for the State has also referred to Section 3 (2) of the Act, where those actions which are prejudicial to the "maintenance of the public order or where actions are in any manner prejudicial to maintenance of supplies and services essential to the community" justify the making of an order under the NSA.

11. In order to further substantiate his arguments, learned counsel for the respondent-State has relied upon the judgment of the Supreme Court in the case of **Suraj Pal Sahu Vs State of Maharashtra and others, (1986) 4 Supreme Court Cases 378**. This according to the learned counsel for the State was a case where, even though the matter involved essential commodities, the detention was made under the NSA, which was sustained right up to

the Supreme Court.

12. Having gone through the said judgment, it is necessary to briefly state the factual background of that case. In that case, the petitioner Suraj Pal Sahu was a detenu, who was detained under the provisions of the NSA. His action was of continuously engaging himself in committing acts prejudicial to the maintenance of supplies and services essential to the community i.e. removing of permanent way material stocked along railways lines for maintenance of railway tracks. That part of the factual aspect is seminal, which changes the entire texture of the case before the Supreme Court. In short, the allegation against the detenu in that case was that materials like tracks and sleepers, which are stocked along railways lines for the purpose of maintenance of the railway lines i.e. by changing either the track or sleepers upon them being damaged in order to ensure that the essential services which is the railways service, is not disrupted. The detenu in that case was not indulging in blackmarketing, but indulged in theft of railway property, which was kept along the tracks and selling them in the open market for the value of the metal. By doing so, in a moment of need when the tracks have to be changed or sleepers have to be changed, on account of the damage suffered by them, the material would not be available, which in turn, would affect the railways services. When this fact is read in the backdrop of Section 3 of the NSA, it becomes applicable as in such a situation, maintenance of supplies and services essential to the community is prejudicially affected. The distinction between the General Law and the Special Law is that the PBMSEC Act, would only apply for detentions arising from cases where blackmarketing has been indulged in essential commodities under the Essential Commodities Act. Undisputedly, in this particular case before this Court, the transportation was being done in connivance with the officers of the godown for the purpose of selling the same in

the open market at higher cost would be an act of blackmarketing. Illicit trade in goods or commodities in violation of official regulations as defined in Merriam-Webster Dictionary, would be blackmarketing.

13. For the distinction between the application of the NSA for detention and the PBMSEC Act for an act of blackmarketing, is thin but real. For a detention under Section 3(2) of the NSA for an act which is related to essential commodities, would be in a situation where there is a physical blockade of transportation of material or the destructions of road through which the material must pass to the fair price shops, or physically there has been any action on the part of the detenu to prevent the flow of essential commodities, in such a situation undoubtedly NSA would be applicable. Else, in all other situation where the main issue involved is blackmarketing, it is the Special Act that must prevail. The usage of the NSA in a case of blackmarketing and detaining the detenu for a period of one year only because the Special Act provides a maximum detention of six months, would be a perversion of the law and a contorted action in order to overcome the Special Act. Such an action would be liable to be set aside.

14. Therefore, in view of what has been argued and considered as hereinabove, these petitions succeed and are **allowed**. The impugned orders dated 23.05.2026, 29.05.2026 and 12.07.2026 passed by the District Magistrate, Bulandshahar in HBAC Nos. 954 of 2026, 1306 of 2026, 1075 of 2026 and 1077 of 2026, respectively, are set aside and the petitioners be set at liberty forthwith, if not wanted in any other case.

October 7, 2026
Noman

(Achal Sachdev,J.) (Atul Sreedharan,J.)