

CWP-22223-2023 (O&M) and connected 08 cases

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**Reserved on: 28.05.2024  
CWP-22223-2023 (O&M)  
Pronounced on : 02.07.2024**

**1.**

Sadha Ram @ Bhajna Ram ...Petitioner

Versus

State of Haryana and Others ..Respondents

**2.**

**CWP-28451-2023 (O&M)**

Pal Singh ...Petitioner

Versus

State of Haryana and Others ..Respondents

**3.**

**CWP-2392-2024 (O&M)**

Nadeem ...Petitioner

Versus

State of Haryana and Others ..Respondents

**4.**

**CWP-2418-2024 (O&M)**

Vikram @ Vicky ...Petitioner

Versus

State of Haryana and Others ..Respondents

**5.**

**CWP-2450-2024 (O&M)**

Rajender Singh @ Bhura ...Petitioner

Versus

State of Haryana and Others ..Respondents



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**6.**

**CWP-28656-2023 (O&M)**

Nirmal Singh ...Petitioner

Versus

State of Haryana and Others ..Respondents

**7.**

**CWP-6139-2024 (O&M)**

Iqbal @ Kranti ...Petitioner

Versus

State of Haryana and Others ..Respondents

**8.**

**CWP-6841-2024 (O&M)**

Vikram @ Vicky ...Petitioner

Versus

State of Haryana and Others ..Respondents

**9.**

**CWP-4936-2024 (O&M)**

Jiwan Singh @ Thikra ...Petitioner

Versus

State of Haryana and Others ..Respondents

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

Present :- Mr. Parminder Singh Sekhon, Advocate and  
Mr. Rajdeep Singh Gill, Advocate for the petitioner  
in **CWP-22223-2023**.

Mr. Akshit Mehta, Advocate for the petitioner  
in **CWP-28451-2023**.



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Mr. Balraj Gujjar, Advocate for the petitioner  
in CWP-2392-2024.

Mr. Vansh Malhotra, Advocate for the petitioner(s)  
in CWP-2418-2024 and CWP-2450-2024.

Mr. Naveen, Advocate for  
Mr. Sanjiv Gupta, Advocate for the petitioner  
in CWP-6139-2024.

Mr. Manish Verma, Advocate for the petitioner  
in CWP-28656-2023.

Mr. Sahir Singh Virk, Advocate and  
Mr. V.B. Godara, Advocate for the petitioner  
in CWP-6841-2024 .

Mr. Kartar Singh, Advocate for the petitioner  
in CWP-4936-2024.

Mr. Vivek Saini, Addl. A.G., Haryana.

Ms. Alisha Soni, Advocate for  
Mr. Vishal Garg, Advocate for respondent No.2.

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**VINOD S. BHARDWAJ, J.**

1. The batch of above 09 writ petitions is being decided by a common judgment as they raise a common point of law.

2. The brief facts of the respective cases are extracted as under:-

**CWP No. 22223 of 2023: Sadha Ram @ Bhajna Ram Vs. State of Haryana & Ors.**

3. The petitioner has sought quashing of the order dated 11.08.2023 passed by respondent No.2 vide which the respondent-State had passed an order of preventive detention against the petitioner under the provisions of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (hereinafter referred to as 'the Act of



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1988'), on the ground that the petitioner is involved in six other cases registered under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act, 1985), which is tabulated as under:

Sr. No.	FIR No./ date, u/s, and P.S.	Date of Arrest	Bail or Custody	Acquitted /Convicted	Substance recovered
1.	FIR No. 231 dated 08.11.1996 u/s 15 of NDPS at P.S. Guhla, District Kaithal	10.11.1996	---	Convicted by Trial Court but acquitted in appeal	595 Kilograms poppy husk was recovered from the possession of one Laftain Singh accomplice of Petitioner-Sadha Ram
2.	FIR No. 146 dated 28.08.2003 u/s 15 of NDPS at P.S. Guhla, District Kaithal	--		Convicted by Trial Court but acquitted in appeal.	280 kilograms poppy husk was recovered from the possession of Suba Singh and Sukha Singh Accomplice of Accused Sadha Ram
3.	FIR No. 114 dated 29.08.2014 u/s 15 of NDPS at P.S. Dirbha, District Sangrur.	01.11.2014	--	Acquitted	9.500 kilograms poppy husk was recovered from possession of accused Sadha Ram
4.	FIR No. 120 dated 07.09.2014 u/s 15 of NDPS at P.S. Dirbha, District Sangrur.	07.09.2014	---	Convicted and sentence suspended in appeal	56-kilogram poppy husk was recovered from the possession of accused Sadha Ram.
5.	FIR No. 167 dated 24.10.2016 u/s 15, 22 of NDPS at P.S. Dirbha, District Sangrur.	24.11.2016	---	Convicted	5-kilogram poppy husk 2000 intoxicating tablets were recovered from the possession of accused Sadha Ram
6.	FIR No. 61 dated 19.03.2021 u/s 18 (c), 29 of NDPS at P.S. Guhla, District Kaithal.	19.03.2021	On bail	Under Trial	55 Grams opium was recovered from co-accused Gurmukh s/o Sadha Ram and Rs.2000 drug money was recovered from him.



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4. As per the order of detention, it has been noticed by the respondent-authorities that the petitioner is a habitual offender and is involved in possession, sale and transportation of narcotic drugs especially poppy-husk, opium and intoxicating tablets. It is further recorded that he is engaged in this illegal trade for the last 26 years and had been convicted in 04 cases by the trial Court but notwithstanding such conviction, he has actively involved himself in possession, sale and transportation of narcotic drugs and psychotropic substances. The detention order was followed by the grounds of detention dated 11.08.2023 (Annexure P-2) furnished to the petitioner.

5. The arguments raised for the petitioner are that the order of detention is illegal and that out of the six cases tabulated above, the petitioner was subsequently acquitted in appeal in three cases including in FIR No.114 dated 29.08.2014. It is submitted that the petitioner has been convicted only in one case and that in another case i.e. FIR No.61 dated 19.03.2021, there is no attribution to the petitioner and that the recovery of 55 grams of opium has been effected from Gurmukh (co-accused/son of the petitioner) and only an amount of Rs.2,000/- was recovered from him. The petitioner was nominated in the said case with the aid of Section 29 of the NDPS Act on the basis of disclosure statement of co-accused and he is already on bail in the said case. He submits that even though the detention order mentioned that the petitioner is involved in the narcotic trade for the last 26 years, however, only two cases had been registered upto 2014 and he has been convicted only in two cases and that over a span of five years after 2016, the FIR was registered in the year 2021 by nominating the petitioner.



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It is submitted that the order of detention has been passed without any evidence or material on record to substantiate the legality of the order.

6. Defending the said order, learned counsel for the respondent(s) has contended that the competent authority has taken a note of the material documents and evidence placed before it. The order of detention was passed on 11.08.2023 but was issued on 16.08.2023 and the petitioner was detained on 18.08.2023. The grounds of detention were communicated to the petitioner on the same day as per law requiring communication of the grounds of detention within five days. It is also submitted that the State Government had forwarded its report with respect to the order of detention to the Central Government on 22.08.2023 i.e. within a period of 10 days as prescribed under Section 3 of the Act of 1988. It is further submitted that the Advisory Board was constituted in furtherance of Section 9 of the Act of 1988, vide Notification dated 11.08.2023 and a reference was made to the above said Advisory Board by the Government on 20.09.2023 within a period of five weeks. The Advisory Board after considering the reference and material placed before it and after granting a hearing to the petitioner in person through video conference, prepared a report which was received vide communication dated 16.10.2023 concluding to the effect that there is sufficient cause for the detention of the petitioner. It is argued that the past antecedents of the petitioner and his involvement in a large number of cases spanning over a period of 26 years including his initial conviction in four cases shows that he has been involved actively and continuously in the prohibited trade. It is thus prayed that the petition be dismissed. The details of the State's contentions are tabulated as under:-



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Date	Particulars
20.07.2023	<p>Proposal dated 19.07.2023 was received from Director General of Police, Haryana for preventive detention of Sadha Ram @ Bhajna Ram under section 3 of the PITNDPS Act, 1988 along with dossier on 20.07.2023.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 06 cases registered against the petitioner were given.</li> <li>➤ Narcotics substance poppy husk/opium was recovered from the petitioner.</li> <li>➤ The details of cases registered against the family members i.e. son and brother of the petitioner were also given. It was mentioned that as per report of Security Branch, Kaithal. He was still active in illegal sale/purchase of prohibited contrabands.</li> <li>➤ As per report of CID, the name of petitioner was mentioned regarding indulging in illicit trafficking of drugs.</li> <li>➤ He was kingpin of village Dera Chanchak and many drug smugglers were working with him. He was habitual offender of illegal trafficking of drugs.</li> </ul>
11.08.2023	<p>The case was considered by the Competent Authority and detention order was passed on 11.08.2023 and was issued on 16.08.2023.</p> <p><b>Grounds of detention order:-</b></p> <ul style="list-style-type: none"> <li>➤ during the period from 1996 to 2021, the petitioner was involved in 06 cases.</li> <li>➤ he was convicted in 04 cases, acquitted in 01 case and 01 case was under trial.</li> <li>➤ there was documented history of his involvement in illegal trade of narcotic substance for the last more than 26 years.</li> <li>➤ previous convictions and multiple arrests did not deter him from involving in NDPS cases.</li> <li>➤ it was necessary to prevent him from indulging in such activities.</li> <li>➤ Hence, the detention order along with grounds of detention was passed and issued on 16.08.2023.</li> </ul>
28.08.2023	<p>Report dated 28.08.2023 (copy attached) was received from Superintendent of Police, Kaithal regarding Execution of detention order mentioning that:-</p>



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	<ul style="list-style-type: none"> <li>➤ He was detained on 18.08.2023 in District Jail, Kaithal.</li> <li>➤ At the time of detention, total 12 pages of detention order and ground of detention, 12 pages of Hindi translation, 1-597 pages of complete file/dossier were supplied to the petitioner in presence of witness Sh. Ashok Kumar, BDPO Guhla.</li> <li>➤ He was also informed about his right to be heard by Advisory Board.</li> </ul> <p><b>Representation:-</b></p> <ul style="list-style-type: none"> <li>➤ No representation was received from petitioner by the detaining authority, Advisory Board or Central Govt.</li> </ul>
20.09.2023	A reference in respect of detention of Sadha Ram @ Bhajna Ram was made to the Advisory Board.
16.10.2023	The Advisory Board prepared its report, which was received vide letter dated 16.10.2023.
26.10.2023	On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by the Competent Authority.

**CWP No. 28451 of 2023:- Pal Singh Vs. State of Haryana & Ors.**

7. Challenge is to the order of detention dated 03.11.2023 passed by the respondent-State.

8. The details of the cases in which the petitioner is involved are tabulated as under:

Sr. no.	FIR No./ date, u/s, and P.S.	Date of Arrest	Bail or Custody	Acquitted /Convicted/under Trial	Substance recovered
1.	FIR No. 188 dated 30.03.2022 u/s 20 of NDPS at P.S. Palla, District Faridabad	30.03.2022	Bail granted on 30.03.2022	Under Trial	320 Gram Ganja





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2.	FIR No. 334 dated 10.06.2022 u/s 20 of NDPS at P.S. Palla, District Faridabad	10.06.2022	Bail Granted on 11.06.2022	Under Trial	620 gram Ganja
3.	FIR No. 529 dated 05.09.2022 u/s 20 of NDPS at P.S. Palla, District Faridabad	05.09.2022	Bail granted on 06.09.2022	Under Trial	460 gram Ganja

9. It was recorded in the detention order that the petitioner had engaged in illegal sale of Ganja and despite having been arrested on multiple occasions, he has not deterred from re-engaging in the trade of illicit drug and is continuously abusing the provision of bail to revive the trade of drug.

10. Learned counsel for the petitioner has argued that the order of detention was passed on 03.11.2023 and that a representation dated 24.11.2023 was moved by the petitioner for exercising his rights as envisaged under Article 22 of the Constitution of India, however, there is no decision on the said representation and even the diary number has not been communicated to the petitioner. It is submitted that the detention of the petitioner without communication of the grounds of arrest and non-adjudication of the representation submitted, violates the mandate of Article 22 of the Constitution of India. It is argued that all the above said cases have been registered in quick succession and that the petitioner is already on bail in the said cases.

11. Responding to the above, learned State counsel has argued that action of the State is as per law. The grounds of detention had been communicated to the petitioner and a reference to the Advisory Board had also been made as per the mandatory provisions of the Act. It is submitted



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that the sole ground raised by the petitioner is that no decision has been taken on his representation by the Government, however, this argument is misconceived as no such representation dated 24.11.2023 has been received by the respondents. Verification of the said claim was also made by seeking a report from the Superintendent of Jail, Faridabad, and it is reported that no such representation was submitted. An opportunity of hearing was also extended to the petitioner through video conferencing on 13.12.2023 by the Advisory Board and during the said proceedings, the petitioner did not argue that any representation had been submitted by him. Hence, the argument is without merit or any valid basis. It is contended that repeated involvement of the petitioner in the said cases relating to the possession and sale of narcotic drugs gives rise to valid grounds and reasons for passing of an order of preventive detention against the petitioner and the power has been rightly exercised. The statutory safeguards have been duly followed and that there is no illegality or perversity in the order dated 03.11.2023. Learned State counsel thus prays for dismissal of the writ petition. The table showing the procedure followed by the State is as under:-

Date	Particulars
05.09.2023	<p>Proposal dated 05.09.2023 was received from Director General of Police, Haryana for preventive detention of Pal Singh along with dossier on 05.09.2023. Certain information was sought, which was received vide letter dated 10.10.2023.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 03 cases registered against the petitioner were given.</li> <li>➤ Narcotics substance <i>Ganja</i> was recovered from the petitioner.</li> <li>➤ All the cases were pending trial.</li> <li>➤ It was mentioned that he has been caught red</li> </ul>



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	<p>handed with drugs multiple times and previous arrests have not deterred him from re-engaging in drug trade.</p> <ul style="list-style-type: none"> <li>➤ If not detained immediately, in all probabilities, he will again engage in smuggling of <i>Ganja</i> supply.</li> </ul>
03.11.2023	<p>The case was considered by the Competent Authority and detention order was passed on 03.11.2023 and was issued on 03.11.2023.</p> <p><b>Grounds of detention order:-</b></p> <ul style="list-style-type: none"> <li>➤ the petitioner was habitual illicit drug trafficker.</li> <li>➤ there was documented history of his involvement in illegal trade of narcotic substance for the last more than 01 year.</li> <li>➤ despite being arrested multiple times, he has remained actively involved in illegal drug smuggling.</li> <li>➤ a specific report was sought regarding his conduct and it was reported that he was still active in illicit trafficking of drugs.</li> <li>➤ it was necessary to prevent him from indulging in such activities.</li> </ul>
09.11.2023	<p>Report dated 09.11.2023 (copy attached) was received from DCP Central, Faridabad regarding Execution of detention order mentioning that:-</p> <ul style="list-style-type: none"> <li>➤ He was detained on 04.11.2023.</li> <li>➤ At the time of detention, total 06 pages of detention order and ground of detention, 06 pages of Hindi translation, 1-84 pages of complete file/dossier were supplied to the petitioner in presence of witnesses Smt. Akko Kaur (Wife) and Head Constable Anup Singh.</li> <li>➤ He was also informed about his right to make representation to the Detaining Authority, State Govt., Central Govt. and Advisory Board.</li> </ul> <p><b>Representation:-</b></p> <p>No representation was received from petitioner by the Detaining Authority, Advisory Board or Central Govt.</p>
22.11.2023	<p>A reference in respect of detention of petitioner was made to the Advisory Board.</p>
19.12.2023	<p>The Advisory Board prepared its report, which was received vide letter dated 22.12.2023.</p>



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03.01.2024	On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by Competent Authority.
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**CWP No. 2392 of 2024- Nadeem Vs State of Haryana & Ors**

12. Challenge in the writ petition is to the order of preventive detention of the petitioner dated 02.11.2023 based on the proposal sent by the Director General of Police, Haryana, for detention of the petitioner under Section 3 of the Act of 1988.

13. The details of the cases in which the petitioner is involved are tabulated as under:

Sr. no.	FIR detail	Substance
1	FIR No. 450 dated 14.08.2018 U/s 21 NDPS Act, P.S. City Yamuna Nagar	4g 6mg smack
2	FIR No. 531 dated 21.08.2020 U/s 21 NDPS Act, P.S. City Yamuna Nagar	25g 54mg smack
3	FIR No. 200 dated 18.03.2021 U/s 21 NDPS Act, P.S. City Yamuna Nagar	4 g smack (supplier)
4	FIR No. 811 dated 03.10.2021 U/s 21 NDPS Act, P.S. City Yamuna Nagar	6g 22mg smack (supplier)
5	FIR no 621 dated 27.07.2022 U/s 21 NDPS Act, P.S. City Yamuna Nagar	9g 25mg smack

14. It is contended by the learned counsel for the petitioner that in all the above cases, the quantity of contraband shown is either non-commercial or small quantity. It is contended that the order of preventive detention was passed on 02.11.2023 and that the petitioner was detained on 03.11.2023. The report was sought from the Advisory Board thereafter rendering the order of detention illegal being in derogation of the mandatory



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provisions of the Act of 1988. He contends that a reference was made to the Advisory Board on 16.12.2023 under Section 9 (b) of the Act of 1988 and that the report of the Advisory Board had not been furnished to the petitioner. It is also contended that the opinion of the Advisory Board is beyond the substance which is available on file.

15. Responding to the above, learned State counsel however reiterates the arguments with respect to the compliance of the mandatory provisions of the Act of 1988 and contends that the involvement of the petitioner in such a large number of cases shows that the petitioner is an integral link of the supply chain in the narcotics field. It is further submitted that the Advisory Board served notice prior to passing of the order dated 28.12.2023 and the report along with relevant documents relied upon by the authorities were duly served upon the petitioner in District Jail, Jagadhari, through the Superintendent of District Jail, Yamuna Nagar. All the material was duly considered by the Advisory Board and a conclusion was drawn that there was sufficient cause for ordering preventive detention of the petitioner. A prayer for dismissal of the writ petition was accordingly made. Table giving particulars of State action is as under:-

Date	Particulars
16.10.2023	<p>Proposal dated 12.10.2023 was received from Director General of Police, Haryana for preventive detention of Nadeem along with dossier on 16.10.2023.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 05 cases registered against the petitioner were given.</li> <li>➤ Narcotics substance Smack was recovered from the petitioner.</li> <li>➤ All the cases were pending trial.</li> <li>➤ It was mentioned that he has been continuously engaging in illegal procurement and selling of</li> </ul>



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	<p>smack.</p> <ul style="list-style-type: none"> <li>➤ He was habitual offender of illegal trafficking of drugs and in order to curb his illegal activities it is a fit case for his preventive detention.</li> </ul>
31.10.2023	<p>The case was considered by the Competent Authority and detention order was passed on 31.10.2023 and was issued on 02.11.2023.</p> <p><b>Grounds of detention order:-</b></p> <ul style="list-style-type: none"> <li>➤ during the period from 2018 to 2022, the petitioner was involved in 05 cases.</li> <li>➤ there was documented history of his involvement in illegal trade of narcotic substance for the last more than 05 years.</li> <li>➤ despite being arrested multiple times, he has remained actively involved in illegal drug smuggling.</li> <li>➤ a specific report was sought regarding his conduct and it was reported that he was still active in illicit trafficking of drugs.</li> <li>➤ it was necessary to prevent him from indulging in such activities.</li> </ul>
10.11.2023	<p>Report dated 10.11.2023 (copy attached) was received from the Superintendent of Police, Yamuna Nagar regarding execution of detention order mentioning that:-</p> <ul style="list-style-type: none"> <li>➤ He was detained on 03.11.2023 in District Jail, Yamunanagar.</li> <li>➤ At the time of detention, total 06 pages of detention order and ground of detention, 09 pages of Hindi translation, 169 pages of complete file/dossier were supplied to the petitioner in presence of witnesses Sh. Surinder Madan and Fateh Singh.</li> <li>➤ He was also informed about his right to make representation to the Detaining Authority, State Govt., Central Govt. and Advisory Board.</li> </ul> <p><b>Representation:-</b></p> <p>No representation was received from the petitioner by the Detaining Authority, Advisory Board or Central Govt.</p>
16.11.2023	<p>A reference in respect of detention of petitioner was made to the Advisory Board.</p>
22.12.2023	<p>The Advisory Board prepared its report, which was received vide letter dated 22.12.2023.</p>



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28.12.2023	On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by Competent Authority.
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**CWP No. 2418 of 2024: - Vikram @ Vicky Vs State of Haryana & Ors.**

16. Challenge is to the detention order dated 30.10.2023 as well as the order dated 15.12.2023 passed by the Department of Home, Haryana.

17. The details of the cases in which the petitioner is involved are tabulated as under:

Sr. No.	FIR No./ date, u/s, and P.S.	Date of Arrest	Bail or Custody	Acquitted /Convicted	Substance recovered
1.	FIR No. 249 dated 04.06.2019 u/s 20 of NDPS at P.S. City Kaithal.	04.06.2019	---	Convicted vide order dated 09.09.2023	735 gram Ganja Phool Patti
2.	FIR No. 657 dated 26.11.2021 u/s 20 of NDPS at P.S. City Kaithal.	26.11.2021	Bail granted on 21.01.2022	Under Trial	1 kg 200 grams Ganja Phool Patti
3.	FIR No. 515 dated 29.09.2022 u/s 20 of NDPS at P.S. City Kaithal.	29.09.2022	Bail granted on 30.11.2022	Under Trial	1 kg 100 gram Ganja Patti

18. It is contended by the learned counsel for the petitioner that the respondent-State was bound to make a reference to the Advisory Board within a period of 05 five weeks of the date of order of detention and that the Advisory Board was to prepare its report within a period of six weeks thereafter and upon granting an opportunity of hearing to the person aggrieved before forming an opinion as to whether sufficient cause exists for preventive detention of the person. A copy of the report of Advisory Board was never supplied to the petitioner and no reasons had been furnished. It is



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also contended that the mandatory provision under Section 3 of the Act of 1988 has not been complied with and that the respondents had failed to inform and send a report to the Central Government within the prescribed timeline of ten days. He further submits that out of said three cases, the petitioner has been granted bail in two cases and in third case he was convicted vide order dated 09.09.2023. It is contended that the guilt of the petitioner in the pending case two cases is yet to be established. He vehemently argues that there are insufficient grounds for directing preventive detention of the petitioner and that the order annuls the grant of bail by the Courts.

19. Responding to the above, learned State counsel has contended that all the mandatory provisions of the Act of 1988 had been duly followed. A copy of the order dated 30.10.2023 was furnished to the petitioner on 31.10.2023 conveying the reasons of his detention and also apprising the availability of statutory remedy of an appeal to the Advisory Board and to file representation to the State or Central Government. It is further submitted that as per the report received from the MHC Police Station City, Kaithal, as many as seven cases under the NDPS Act were registered from 01.01.2022 to 31.12.2022 but after his arrest only two cases were registered between 01.01.2023 to 31.10.2023 and after his detention, no case has been registered from 01.11.2023 onwards against the petitioner, which shows that the petitioner was actively involved in the trade of drug and that his detention has restrained the said activities in the area. It is thus submitted that the order of detention has been validly passed after legal consideration and compliance of the mandatory provisions of the Act of 1988 and that the





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same cannot be faulted with. A prayer for dismissal of the writ petition was thus made. The table giving timelines and the procedure adopted by the State is as under:-

Date	Particulars
11.10.2023	<p>Proposal dated 10.10.2023 was received from Director General of Police, Haryana for preventive detention of Vikram @ Vicky along with dossier on 11.10.2023.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 03 cases registered against the petitioner were given.</li> <li>➤ Narcotics substance Ganja was recovered from the petitioner.</li> <li>➤ He was convicted in 01 case and 02 cases were pending trial.</li> <li>➤ The details of cases registered against the family members of the petitioner were also given. It was mentioned that as per report of Security Branch, Kaithal. He was still active in illegal sale/purchase of prohibited contrabands.</li> <li>➤ He was kingpin of Sainsi Basti Jakholi Adda Kaithal and many drug smugglers were working with him.</li> <li>➤ He was habitual offender of illegal trafficking of drugs.</li> </ul>
25.10.2023	<p>The case was considered by the Competent Authority and detention order was passed on 25.10.2023 and was issued on 30.10.2023.</p> <p><b>Grounds of detention order:-</b></p> <ul style="list-style-type: none"> <li>➤ during the period from 2019 to 2022, the petitioner was involved in 03 cases.</li> <li>➤ he was convicted in 01 case and 02 cases were under trial.</li> <li>➤ there was documented history of his involvement in illegal trade of narcotic substance for the last more than 04 years.</li> <li>➤ previous convictions and multiple arrests did not deter him from involving in NDPS cases.</li> <li>➤ it was necessary to prevent him from indulging in such activities.</li> </ul>



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08.11.2023	<p>Report dated 08.11.2023 (copy attached) was received from the Superintendent of Police, Kaithal regarding execution of detention order mentioning that:-</p> <ul style="list-style-type: none"> <li>➤ He was detained on 31.10.2023 in District Jail, Kaithal.</li> <li>➤ At the time of detention, total 06 pages of detention order and ground of detention, 06 pages of Hindi translation, 1-266 pages of complete file/dossier were supplied to the petitioner in presence of witnesses Sh. Aashish, Naib Tehsildar Kaithal, Rishipal S/o Dharampal and Shamsher S/o Maalu Ram R/o Jakholi adda.</li> <li>➤ He was also informed about his right to make representation to the Detaining Authority, State Govt., Central Govt. and Advisory Board.</li> </ul> <p><b>Representation:-</b></p> <p>No representation was received from petitioner by the Detaining Authority, Advisory Board or Central Govt.</p>
15.11.2023	A reference in respect of detention of petitioner was made to the Advisory Board.
13.12.2023	The Advisory Board prepared its report, which was received vide letter dated 13.12.2023.
26.10.2023	On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by the Competent Authority.

**CWP No. 2450 of 2024:- Rajender Singh @ Bhura Vs State of Haryana & Ors.**

20. Challenge in the petition is to the order of preventive detention dated 31.10.2023 on the strength of the proposal sent by the officials invoking Section 3 of the Act of 1988.

21. The details of the cases in which the petitioner is involved are tabulated as under:



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Sr. no.	FIR detail	Substance
1	FIR no 32 Dated 15.01.2020 U/s 20 NDPS Act, P.S. City Kaithal.	700 Gms Ganja Phool Patti
2	FIR no 174 Dated 20.04.2020 U/s 20 NDPS Act, P.S. City Kaithal.	1 Kg Ganja Phool Patti
3	FIR no 349 Dated 07.07.2022 U/s 20 NDPS Act PS City Kaithal.	1 Kg 235 gms Ganja Phool Patti

22. It is contended by the learned counsel for the petitioner that the Police officials came to the house of the petitioner on 02.11.2023 and detained him. An order of preventive detention passed by respondent No.3 was handed over to the family members of the petitioner but the mandatory provisions of timeline have not been adhered to. It is also submitted that the petitioner has been detained merely on the apprehension that other family members of the petitioner are also involved in similar offences. He contends that the petitioner is on bail in all the above said FIRs, which are under charge. There is no finding of guilt returned against the petitioner. It is also argued that the entire material and decision has not been supplied to the petitioner and that the agencies have opted to make a reference of the secret report, vague assumptions and alleged continuous involvement. There is violation of the mandatory procedure prescribed under Section 3 (2) of the Act of 1988 as communication to the Central Government has not been sent within a period of 10 days and that the report of Advisory Board was never furnished to the petitioner. It is also contended that the order of preventive detention was thus passed in gross abuse of powers conferred upon the authorities.

23. Responding to the above, learned State counsel contends that



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the copy of the order of preventive detention dated 31.10.2023 was duly supplied to the petitioner on the same day and he was explained about the availability of statutory remedy of appeal to the Advisory Board and to file representation to the State or Central Government. The information of preventive detention of the petitioner was sent to the Central Government by the authorities and the report was received from the Security Branch about the active involvement of the petitioner in sale and purchase of contraband. As many as three cases are already pending against the petitioner, who along with his family members is involved in the said trade and that being a king pin and main link of the drug supply chain, the order of preventive detention has been rightly passed against the petitioner in furtherance of the objects of the Act of 1988. Learned State counsel thus prays that the petition be dismissed and relies on the table reproduced below:-

Date	Particulars
11.10.2023	<p>Proposal dated 10.10.2023 was received from Director General of Police, Haryana for preventive detention of Rajender Singh @ Bhura along with dossier.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 03 cases registered against the petitioner were given.</li> <li>➤ Narcotics substance Ganja was recovered from the petitioner.</li> <li>➤ The details of cases registered against the family members i.e. two sons and two brothers and sons of brothers of the petitioner were also given.</li> <li>➤ It was mentioned that as per report of Security Branch, Kaithal. He was still active in illegal sale/purchase of prohibited contrabands.</li> <li>➤ As per report of CID, the name of petitioner was mentioned regarding indulging in illicit trafficking of drugs.</li> </ul>



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	<ul style="list-style-type: none"> <li>➤ He was kingpin of Sainsi Basti Jakholi Adda Kaithal and many drug smugglers were working with him.</li> <li>➤ He was habitual offender of illegal trafficking of drugs.</li> </ul>
31.10.2023	<p>The case was considered by the Competent Authority and detention order along-with grounds of detention was passed on 31.10.2023 issued on 02.11.2023.</p> <p><b>Grounds of detention:-</b></p> <ul style="list-style-type: none"> <li>➤ during the period from 2020 to 2022, the petitioner was involved in 03 cases.</li> <li>➤ Ganja was recovered from his possession.</li> <li>➤ his relatives i.e. Rahul, Arun (Sons), Ishma, Jagmal (Brothers), Rajiv, Vikram (Brother's sons) were also involved in illegal trafficking of drugs.</li> <li>➤ multiple arrests did not deter him from involving in NDPS cases after getting bail.</li> <li>➤ hence it was necessary to prevent him from indulging in such activities.</li> </ul>
08.11.2023	<p>Report dated 08.11.2023 (copy enclosed) was received from the Superintendent of Police, Kaithal mentioning that:-</p> <ul style="list-style-type: none"> <li>➤ He was detained on 02.11.2023 in District Jail Kaithal.</li> <li>➤ At the time of detention, total 06 pages of detention order and ground of detention, 06 pages of Hindi translation, 1-262 pages of complete file/dossier were supplied to the petitioner in presence of witnesses Sh. Aashish, Naib Tehsildar Kaithal, Rishipal S/o Dharampal and Shamsher S/o Maalu Ram R/o Jakholi adda.</li> <li>➤ He was also informed about his right to make representation to the Detaining Authority, State Govt., Central Govt. and Advisory Board.</li> </ul> <p><b>Representation:-</b></p> <p>No representation was received from the petitioner by the Detaining Authority, Advisory Board or Central Govt.</p>
15.11.2023	A reference in respect of detention of Rajender Singh @



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	Bhura was made to the Advisory Board.
13.12.2023	The Advisory Board prepared its report, which was received vide letter dated 13.12.2023.
27.12.2023	On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by the Competent Authority.

**CWP No. 28656 of 2023- Nirmal Singh Vs. State of Haryana & Ors.**

24. Challenge in the petition is to the order of preventive detention dated 11.08.2023 and the subsequent confirmation of the same vide order dated 08.11.2023 passed under Section 3 of the Act of 1988.

25. The details of the cases in which the petitioner is involved are tabulated as under:

Sr. no.	FIR detail	Substance
1	FIR No. 105 Dated 16.04.2019 U/s 21, 61 & 85 NDPS Act, P.S. Chandimandir, Panchkula.	40 Gm Heroin
2	FIR No. 252 Dated 31.05.2022 U/s 18, 29, 61 & 85 NDPS Act, Section 3, 4 PMLA, 2002 and Section 24, 54, 59 Arms Act at P.S. Sector 5, Panchkula.	697 gm (432 gm + 265 gm) opium chance recovery among other items such as two country made pistols with 3 magazines and 11 live ammunition gold Jewellery and currency notes worth approximately Rs. 4 crores 63 lakhs.
3	FIR No. 335 Dated 08.06.2022 U/s 18, 61 & 85 NDPS Act at P.S. Pinjore, Panchkula.	3 kg 564 gm of opium (734 gm + 2 kg 830 gm).

26. It is submitted by the learned counsel for the petitioner that the order of preventive detention was served upon the petitioner while he was already in custody of Enforcement Directorate.

27. Learned counsel for the petitioner has additionally argued that the petitioner has sent a representation to the authorities including the



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detaining authority, State of Haryana, the Advisory Board as well as to the Union of India, on 14.10.2023 but no decision thereupon has been communicated to the petitioner. It is also submitted that the report dated 31.10.2023 of the Advisory Board has not been supplied to the petitioner and as the mandatory procedure and safeguards have not been adhered to, the order of preventive detention is liable to be set aside.

28. Responding to the above, learned State counsel on the other hand contends that the petitioner was involved in as many as three cases during the period from 2002 to 2013 wherein he was acquitted due to different reasons. In the three cases referred to above, the petitioner has been granted bail but they are still pending under trial. It is further submitted that a reference was made to the Advisory Board by the State Government on 20.09.2023 with respect to the impugned detention order within the statutory period of five weeks and all the material was duly considered by the Advisory Board. The petitioner was also granted an opportunity of hearing through video conferencing on 12.10.2023 whereafter a report dated 31.10.2023 was received on 02.11.2023. It is further argued that the representation submitted by the petitioner was forwarded to the Advisory Board vide letter dated 16.10.2023. A ground was raised by the petitioner in a representation, by making reference to specific page numbers, that the same were not legible copies. The Advisory Board directed the authorities to supply the legible copies of the documents vide communication dated 17.10.2023 within a period of three days and that the said directions already stand complied with. It is vehemently argued that the mandatory procedure prescribed under the Act of 1988 has been duly complied with and there is



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no violation thereof. The past antecedents and involvement of the petitioner in a number of cases under the NDPS Act lays valid foundation for directing his preventive detention. It is thus prayed that the writ petition is liable to be dismissed. The table giving the timelines and procedure is reproduced as under:-

Date	Particulars
20.07.2023	<p>Proposal dated 19.07.2023 was received from Director General of Police, Haryana for preventive detention of Nirmal Singh along with dossier on 20.07.2023.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 08 cases registered against the petitioner during the period from 2002 to 2013 and 03 cases registered against him during 2019 to 2022 were given.</li> <li>➤ He was acquitted in 08 cases registered during the period from 2002 to 2013 and 03 cases registered against him during 2019 to 2022 were under trial.</li> <li>➤ Narcotics substance heroine was recovered from him in 01 case. In second case, 697 gm opium was recovered from co-accused besides 02 country made pistols, gold jewellery and currency notes worth Rs. 4 crores 63 lakhs. On disclosure statement of co-accused, search of house of petitioner was carried out and 3 kg 564 gm opium was recovered from the kitchen of house of petitioner and the third case was registered against him.</li> <li>➤ He was habitual drug peddler and his involvement was found with drug peddlers namely Munna Lal, Pawan @ Darvesh and Ashok Kumar @ Bablu as per the call record.</li> <li>➤ Despite being arrested multiple times, he remained actively involved in drug smuggling.</li> <li>➤ If not detained, in all probabilities, he will again engage in smuggling of poppy husk.</li> <li>➤ He was habitual offender of illegal trafficking of drugs and in order to curb his illegal activities it was a fit case for his preventive detention.</li> </ul>





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11.08.2023	<p>The case was considered by the Competent Authority and detention order along-with grounds of detention was passed on 11.08.2023 issued on 14.08.2023.</p> <p><b>Grounds of detention:-</b></p> <ul style="list-style-type: none"> <li>➤ He had documented history of being involved in illegal trade of drugs during the period for the last more than 20 years and presently he was involved in 03 cases involving huge quantity of drugs.</li> <li>➤ Heroin was recovered from him in 01 case. In second case, 697 gm opium was recovered from co-accused besides 02 country made pistols, gold jewellery and currency notes worth Rs. 4 crores 63 lakhs.</li> <li>➤ On disclosure statement of co-accused, search of house of petitioner was carried out and 3 kg 564 gm opium was recovered from the kitchen of house of petitioner and the third case was registered against him.</li> <li>➤ Despite his previous arrests, he remained actively involved in illegal drug smuggling.</li> <li>➤ Hence it was necessary to prevent him from indulging in such activities.</li> </ul>
21.08.2023	<p>Report dated 21.08.2023 (Copy enclosed) was received from Commissioner of Police, Panchkula mentioning that:-</p> <ul style="list-style-type: none"> <li>➤ He was detained on 19.08.2023.</li> <li>➤ At the time of detention, total 06 pages of detention order and ground of detention in English and 11 pages of Hindi translation were supplied to him. Further, 1-513 pages of complete file/dossier were supplied to the petitioner on 21.08.2023.</li> <li>➤ All the above documents were also supplied to his wife under proper receipt on 21.08.2023.</li> </ul> <p><b>Representation:-</b></p> <p>His representation dated 11.10.2023 was forwarded to the Advisory Board by the Superintendent, Central Jail Ambala vide letter dated 16.10.2023. On receipt of the said representation, the Advisory Board vide letter dated 17.10.2023 intimated to supply legible copies of certain documents, which were supplied to him through Superintendent, Central Jail Ambala. His representation was duly considered and decided by the Advisory Board in its report dated 31.10.2023.</p>



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20.09.2023	A reference in respect of detention of petitioner was made to the Advisory Board.
02.11.2023	The Advisory Board prepared its report, which was received vide letter dated 02.11.2023.
08.11.2023	On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by Competent Authority.

**CWP No. 6139 of 2024:- Iqbal @ Kranti Vs State of Haryana & Ors.**

29. Challenge in the present petition is to the order of preventive detention dated 04.09.2023 and order dated 08.11.2023 passed by the Department of Home Affairs.

30. The details of the cases in which the petitioner is involved are tabulated as under:

Sr. no.	FIR No./ date, u/s, and P.S.	Date of Arrest	Bail or Custody	Acquitted /Convicted/ Trial	Substance recovered
1.	FIR No. 46 dated 09.02.2022 u/s 20(b)(II)(c) of NDPS Act at P.S. Punhana, Nuh, Haryana	12.05.2022	In custody	Under Trial	113 kg 170 Gram Ganja was recovered in this case from house of accused Satpal and he stated in his disclosure statement that accused Rarif, the petitioner- Iqbal and Niyamat delivered Narcotic Substance i.e., Ganja
2.	FIR No. 125 dated 12.05.2022 u/s 20 of NDPS Act at P.S. Punhana, Nuh, Haryana	13.06.2022	In custody	Under Trial	38 kg 860-gram narcotic substance i.e. Ganja was recovered from him i.e. accused Akhtar and he stated in his disclosure statement that this brother-in-law Iqbal Kranti.

31. Learned counsel for the petitioner contended that the petitioner



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has been falsely implicated in the above said cases and he has been roped in as an accused on the basis of confessional/disclosure statements of the co-accused from whom the recoveries have been effected. He argues that even in the said cases, there is no specific allegation against the petitioner and neither he is even named in the FIRs nor his involvement was ascertained by the police. He contends that the proposal qua preventive detention of the petitioner was mooted without any show cause and without giving any opportunity of hearing. Since the petitioner was in custody, he sent a representation but the same was also rejected without affording any opportunity of hearing. He asserts that the mandatory provisions of the Act of 1988 have not been followed and thus the order dated 04.09.2023 of preventive detention of the petitioner is liable to be set aside.

32. Responding to the above, learned State counsel contends that the inputs with the agency established that the petitioner had been actively and perpetually engaged in illegal procurement, supply and peddling of psychotropic substances in the area of Nuh and he has been convicted in FIR No. 125 dated 12.05.2022 vide judgment dated 15.01.2024 and the trial is still pending in another case. It is asserted that the mandatory provisions have been duly complied with and there is no breach and that the order of preventive detention has been passed for the reasons that have been well borne out and corroborated from the order of preventive detention. The petition is thus liable to be dismissed. The procedure and grounds are tabulated as under:-

Date	Particulars
20.07.2023	Proposal dated 19.07.2023 was received from Director General of Police, Haryana for preventive detention of



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	<p>Iqbal Kranti along with dossier.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 02 cases registered against the petitioner were given.</li> <li>➤ Narcotics substance 113 kg 170 gm Ganja was recovered from house of one Satpal. Total 120 kg ganja was brought by the petitioner in cylinders in Ecco car and was delivered at the house of Satpal. In another case 38 kg 860 gm ganja was recovered from one Akhtar, which was supplied by the petitioner.</li> <li>➤ The petitioner was in custody and was trying to get bail.</li> <li>➤ The details of 01 case registered against the wife of the petitioner were also given.</li> <li>➤ In order to curb his illegal activities it was a fit case for his preventive detention.</li> </ul>
04.09.2023	<p>The case was considered by the Competent Authority and detention order along-with grounds of detention was passed on 04.09.2023 and was issued on 06.09.2023.</p> <p><b>Grounds of detention:-</b></p> <ul style="list-style-type: none"> <li>➤ He had documented history of being involved in illegal trade of drugs during the year 2022 and he was involved in 02 cases.</li> <li>➤ Ganja in huge quantity was brought by him and supplied to co-accused.</li> <li>➤ his wife (01 case) was also involved in illegal trafficking of drugs.</li> <li>➤ he was trying to get bail and it was highly possible that he may again indulge in trafficking of drugs.</li> <li>➤ hence it was necessary to prevent him from indulging in such activities.</li> </ul>
14.09.2023	<p>Report dated 14.09.2023 (copy enclosed) was received from the Superintendent of Police, Nuh mentioning that:-</p> <ul style="list-style-type: none"> <li>➤ He was detained on 12.09 2023 in District Jail Nuh.</li> <li>➤ At the time of detention, total 12 pages of detention order and ground of detention in English and Hindi</li> </ul>



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	<p>translation were supplied to him. Further, 1-314 pages of complete file/dossier were supplied to the petitioner on 12.09.2023. 1-314 pages of complete file/dossier were supplied to the family member of petition on 13.09.2023.</p> <p>➤ He was also informed about his right to make representation to the Detaining Authority, State Govt., Central Govt. and Advisory Board.</p> <p><b>Representation:-</b></p> <p>No representation was received from petitioner by the Detaining Authority, Advisory Board or Central Govt.</p>
20.09.2023	A reference in respect of detention of petitioner was made to the Advisory Board.
02.11.2023	The Advisory Board prepared its report, which was received vide letter dated 02.11.2023.
08.11.2023	On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by the Competent Authority.

**CWP No. 6841 of 2024:- Vikram @ Vicky S/o Rulia Ram Vs State of Haryana & Ors.**

33. Challenge in the writ petition is to the order dated 16.10.2023 passed by respondent No.1 directing the preventive detention of the petitioner for a period of 11 months.

34. The details of the cases in which the petitioner is involved are tabulated as under:

Sr. no.	FIR detail	Substance
1	FIR No. 685 dated 09.08.2016 u/s 20 NDPS Act, P.S. City Thanesar	1 kg 800 g Ganja
2	FIR No. 151 dated 18.02.2017 u/s 20 NDPS Act, P.S. City Thanesar	3 kg 500 g Ganja
3	FIR No. 498 dated 25.05.2017 u/s 20 NDPS Act, P.S. City Thanesar	2 kg 300g Ganja
4	FIR No. 460 dated	500 g Ganja from co-accused Kamal



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	27.11.2019 u/s 20,29 NDPS Act, P.S. Ladwa	s/o Bhagirath
5	FIR No. 159 dated 27.04.2021 u/s 20, 29 NDPS Act, P.S. Kurukshetra	3 kg 50 g Ganja from co-accused Dharam Pal s/o Munsi Ram
6	FIR No. 689 dated 12.11.2021 u/s 20, 29 NDPS Act, P.S. Kurukshetra	1 kg 95 g Ganja from co-accused- Subhash @ Kala s/o Ramesh@ Ram Chander
7	FIR No. 694 dated 14.11.2021 u/s 20, 29 NDPS Act, P.S. Krishna Gate	2 kg 185 g Ganja from one Rajesh@ Rajesh Kumar s/o Babu Ram

35. It is contended by the learned counsel for the petitioner that the detention of the petitioner was ordered on 16.10.2023 but the Advisory Board submitted its report on 12.01.2024 which is beyond the period prescribed as per the statute, as such, the order is illegal and liable to be set aside. He further submits that the order of preventive detention has not been communicated to the petitioner and that the order of preventive detention is solely to cause humiliation and secure arrest of the petitioner.

36. Responding to the above, learned State counsel denies the allegations levelled and opposes the arguments of the learned counsel for the petitioner by submitting that the involvement of the petitioner in such a large number of cases itself, shows that the authorities have lawfully exercised the powers vested upon them and there has been meticulous compliance of the statutory procedure. The involvement of the petitioner in such a large number of cases reflects that the satisfaction recorded by the Advisory Board was based upon the objective consideration of the existing evidence and material. It is submitted that the conviction of a person is not a pre-requisite for forming opinion as regards the possibility of involvement of the



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petitioner in commission of criminal offences under Section 3 of the Act of 1988. The authority being fully satisfied with the likely involvement of the petitioner, the order of preventive detention has been rightly passed. It is thus prayed that the petition is liable to be dismissed. The table reflecting the process and timelines is extracted as under:-

Date	Particulars
06.09.2023	<p>Proposal dated 05.09.2023 was received from the Director General of Police, Haryana for preventive detention of Vikram @ Vicky along with dossier.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 07 cases registered against the petitioner were given.</li> <li>➤ Narcotics substance Ganja was recovered from the petitioner.</li> <li>➤ The details of cases registered against the family members i.e. father, mother, brother, nephew and wife of the petitioner were also given.</li> <li>➤ Despite being convicted and multiple arrests, he remained actively involved in drug smuggling.</li> <li>➤ He was kingpin of Gandhi Nagar, Thanesar and many drug smugglers including his family members were working with him. He was the main link of drug supply chain.</li> <li>➤ If he is detained, the drug supply in the area will be stopped and the drug smugglers will be demoralized.</li> <li>➤ He was habitual offender of illegal trafficking of drugs and in order to curb his illegal activities it was a fit case for his preventive detention.</li> </ul>
16.10.2023	<p>The case was considered by the Competent. Authority and detention order along with grounds of detention was passed on 16.10.2023 and was issued on 30.10.2023.</p> <p><b>Grounds of detention:</b></p> <ul style="list-style-type: none"> <li>➤ He had documented history of being involved in</li> </ul>



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	<p>illegal trade of drugs during the period from 2016 to 2021 and he was involved in 07 cases.</p> <ul style="list-style-type: none"> <li>➤ Ganja was recovered from his possession in 03 cases and he was supplier in 04 cases.</li> <li>➤ he was convicted in 01 case and was acquitted in 02 cases.</li> <li>➤ his relatives i.e. father (04 cases), mother (01 case), brother (04 cases), nephew (02 cases) and wife (01 case) were also involved in illegal trafficking of drugs.</li> <li>➤ conviction in 01 case and multiple arrests did not deter him from involving in NDPS cases after getting bail.</li> <li>➤ hence it was necessary to prevent him from indulging in such activities.</li> </ul>
07.11.2023	<p>Report dated 07.11.2023 (copy enclosed) was received from the Superintendent of Police, Kurukshetra mentioning that:-</p> <ul style="list-style-type: none"> <li>➤ He was detained on 31.10.2023 in District Jail, Kurukshetra.</li> <li>➤ At the time of detention, total 34 pages of detention order and ground of detention in English and Hindi translation were supplied to him. Further, 1-1090 pages of complete file/dossier were supplied to the petitioner on 04.11.2023.</li> <li>➤ He was also informed about his right to make representation to the Detaining Authority, State Govt., Central Govt. and Advisory Board.</li> </ul> <p><b>Representation:</b></p> <p>No representation was received from petitioner by the Detaining Authority, Advisory Board or Central Govt.</p>
05.12.2023	<p>A reference in respect of detention of petitioner was made to the Advisory Board.</p>
09.01.2024	<p>The Advisory Board prepared its report, which was received vide letter dated 09.01.2024.</p>
12.01.2024	<p>On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by the Competent Authority.</p>





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**CWP No. 4936 of 2024- Jiwan Singh @ Thikra Vs State of Haryana & Ors.**

37. Challenge in the writ petition is to the orders dated 26.10.2023 and 30.01.2024 passed by respondent No.2-Additional Chief Secretary, Department of Home Affairs, Government of Haryana, directing preventive detention of the petitioner based on the proposal sent by respondent No.3.

38. The details of the cases in which the petitioner is involved are tabulated as under:

Sr. no.	FIR detail	Substance
1	FIR No. 206 dated 09.04.2015 u/s 15, 25 NDPS Act, P.S. Ratia	24 kg Poppy Husk (Supplier)
2	FIR No. 374 dated 24.06.2015 u/s 15 NDPS Act, P.S. Ratia	2.5kg Poppy Husk (Supplier)
3	FIR No. 406 dated 15.07.2016 u/s 15, 27A NDPS Act & Sections 147, 149, 186, 224, 225, 332, 353 of IPC P.S. Ratia	190kg Poppy Husk (Supplier)
4	FIR No. 550 dated 06.10.2018u/s 15 NDPS Act, P.S. Ratia	1.2 kg Poppy Husk
5	FIR No. 288 dated 14.12.2021 u/s 15 NDPS Act, P.S. Ratia	82 kg Poppy Husk (Supplier)
6	FIR No. 222 dated 08.08.2022 u/s 15, 29 NDPS Act, P.S. Ratia	545 gm. Poppy Husk (Supplier)
7	FIR No. 117 dated 04.05.2023 u/s 15(b) NDPS Act, P.S. Ratia	20 kg Poppy Husk (Supplier)

39. Learned counsel for the petitioner contends that the order of preventive detention had been passed on the basis of secret report which was never supplied to the petitioner. It is submitted that the orders of preventive detention of the petitioner are non-speaking and not based upon any



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admissible evidence or documents produced by the police. The order does not take into consideration that the petitioner had been acquitted in three cases upto 2020, the remaining four cases are currently under trial. He submits that the orders of preventive detention were passed under political pressure and motive. A representation has already been sent by the petitioner but no action has been taken thereupon. He contends that the mandatory provisions of the Act of 1988 have not been followed rendering the orders liable to be set aside.

40. Controverting the above, learned State counsel submits that the orders of preventive detention had not only been passed on the basis of secret report but also taking into account the repeated involvement of the petitioner in offences related to the NDPS Act. He further submits that the competent authority satisfied itself with respect to the objective material before it justifying issuance of order of preventive detention and after noticing that the petitioner had been engaging and re-engaging in the illegal and illicit traffic of narcotic drug psychotropic substances. The allegations with respect to the political motive for false implication of the petitioner were denied and it was submitted that the case of the petitioner was duly forwarded to the Advisory Board and that a report was received from the Advisory Board along with letter dated 19.01.2024 whereupon the State Government confirmed the order of preventive detention of the petitioner vide its order dated 30.01.2024. It is argued with averments that the prescribed procedure had been duly followed and there is no breach thereof and that the writ petition deserves to be dismissed. The table showing dates and events is extracted as under:-



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Date	Particulars
11.10.2023	<p>Proposal dated 10.10.2023 was received from the Director General of Police, Haryana for preventive detention of Jiwan Singh @ Thikra along with dossier.</p> <p><b>Grounds made in proposal:-</b></p> <ul style="list-style-type: none"> <li>➤ In the proposal, the details of 07 cases registered against the petitioner were given.</li> <li>➤ He was acquitted in 03 cases and 04 cases were under trial.</li> <li>➤ Narcotics substance poppy husk was supplied by the petitioner to the co-accused.</li> <li>➤ He was habitual drug peddler and he was chief drug supplier in the region.</li> <li>➤ Despite being arrested multiple times, he remained actively involved in drug smuggling.</li> <li>➤ If not detained, in all probabilities, he will again engage in smuggling of poppy husk.</li> <li>➤ He was habitual offender of illegal trafficking of drugs and in order to curb his illegal activities it was a fit case for his preventive detention.</li> </ul>
26.10.2023	<p>The case was considered by the Competent Authority and detention order along-with grounds of detention was passed on 26.10.2023 and was issued on 30.10.2023.</p> <p><b>Grounds of detention:-</b></p> <ul style="list-style-type: none"> <li>➤ He had documented history of being involved in illegal trade of drugs during the period from 2015 to 2023 and he was involved in 07 cases.</li> <li>➤ Poppy husk was recovered from his possession in 01 case and he was supplier of poppy husk in 06 cases.</li> <li>➤ he was acquitted in 03 cases and 04 cases were under trial.</li> <li>➤ Despite his previous arrests, he remained actively involved in illegal drug smuggling.</li> <li>➤ hence it was necessary to prevent him from indulging in such activities.</li> </ul>
29.11.2023	<p>Report dated 29.11.2023 (copy enclosed) was received from the Superintendent of Police, Fatehabad mentioning that:-</p> <ul style="list-style-type: none"> <li>➤ He was detained on 28.11.2023 in Central Jail-II,</li> </ul>



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	<p>Hisar.</p> <ul style="list-style-type: none"> <li>➤ At the time of detention, total 11 pages of detention order and ground of detention in English and Hindi translation were supplied to him. Further, 347 pages of complete file/dossier were supplied to the petitioner on 28.11.2023.</li> <li>➤ He was also informed about his right to make representation to the Detaining Authority, State Govt., Central Govt. and Advisory Board.</li> </ul> <p><b>Representation :-</b></p> <p>No representation was received from petitioner by the Detaining Authority, Advisory Board or Central Govt.</p>
05.12.2023	A reference in respect of detention of petitioner was made to the Advisory Board.
19.01.2024	The Advisory Board prepared its report, which was received vide letter dated 19.01.2024.
30.01.2024	On the basis of the conclusion/opinion of Advisory Board, the order of detention was confirmed by Competent Authority.

41. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the respective petitions.

**ISSUES:-**

42. The core issue which emerges from a perusal of the cases above and the arguments advanced by the learned counsel for the respective parties is as to whether an order of preventive detention could have been passed solely on the basis of past involvement of the accused in the cases under the NDPS Act and formation of an opinion about the likelihood of the involvement of the suspect in further offences as well on the basis of the antecedents.

43. A question also arises as to whether the powers of preventive



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detention under Section 3 of the Act of 1988 ought to have been exercised as a means of enforcement of law and order, by defeating the orders whereby bail had already been granted to the suspect(s) or the sentence had been suspended.

44. An ancillary issue would arise as to whether under given circumstances, the State Government ought to have taken appropriate steps for seeking cancellation of bail (in the event there is a breach of any of the conditions of bail) or invoked powers under Section 3 of the Act of 1988 and in the said process extend incarceration of the suspect without any actual future involvement.

**STATUTORY PROVISIONS DEALING WITH PREVENTIVE DETENTION:**

45. To appreciate the aforesaid controversy and the contours of invoking the power of preventive detention, it is necessary to examine the statutory Rules as well as the effective judicial pronouncements on the subject. The relevant provisions are extracted 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



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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).



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- (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 Illicit Traffic in Narcotic Drugs and Psychotropic Substances 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*





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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*



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*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*



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*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.*

**JUDICIAL PRECEDENTS:**

46. In view of the aforesaid statutory provisions, it would be necessary to make a reference to the judgments relied upon by the learned counsel for the respective parties in support of their contentions.

47. The Hon'ble Supreme Court was seized of a matter relating to



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the preventive detention of a person and examined the applicability of Article 22 of the Constitution of India as well as the provisions of Telangana Prevention Of Dangerous Activities Of Bootleggers, Dacoits, Drug offenders, Goondas, Immoral Traffic Offenders Land Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertilizer Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders And White Collar Or Financial Offenders Act, 1982, while dealing with the general discussion on preventive detention and judicial reviewability, in the matter of **Ameena Begum Vs. The State of Telangana & Ors**, reported as **2023 (9) SCC 587** has observed as under:

“9.            *Clauses (1) and (2) of Article 22 of the Constitution guaranteeing protection to a person against arbitrary arrest, effected otherwise than under a warrant issued by a court of law, are regarded as vital and fundamental for safeguarding personal liberty. Nonetheless, the protection so guaranteed is subject to clause (3) of Article 22 which operates as an exception to clauses (1) and (2) and ordains that nothing therein shall apply to, inter alia, any person who is arrested or detained under any law providing for preventive detention. The purpose of preventive detention, as said by Hon'ble A.N. Ray, CJ. in **Haradhan Saha v. State of West Bengal, AIR 1974 SC 2154** is to prevent the greater evil of elements imperiling the security and safety of a State, and the welfare of the Nation.*



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*Preventive detention, though a draconian and dreaded measure, is permitted by the Constitution itself but subject to the safeguards that are part of the relevant article and those carved out by the Constitutional Courts through judicial decisions of high authority which have stood the test of time.*

10. *It is common knowledge that recourse to preventive detention can be taken by the executive merely on suspicion and as a precaution to prevent activities by the person, sought to be detained, prejudicial to certain specified objects traceable in a validly enacted law. Since an order of preventive detention has the effect of invading one's personal liberty merely on suspicion and is not viewed as punitive, and the facts on which the subjective satisfaction of the detaining authority is based for ordering preventive detention is not justiciable, meaning thereby that it is not open to the Constitutional Courts to enquire whether the detaining authority has erroneously or correctly reached a satisfaction on every question of fact and/or has passed an order of detention which is not justified on facts, resulting in narrowing down of the jurisdiction to grant relief, it is only just and proper that such drastic power is not only invoked in appropriate cases but is also exercised responsibly, rationally and reasonably. Having regard to the circumstance of loss of liberty by reason of an order of preventive detention being enforced without the detenu being extended any opportunity to place his case, the Constitutional Courts being*



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*the protectors of Fundamental Rights have, however, never hesitated to interdict orders of detention suffering from any of the vices on the existence whereof such limited jurisdiction of judicial review-ability is available to be exercised.*

11. *At this stage, a survey of certain authorities outlining the contours of judicial reviewability of an order of preventive detention may not be inapt.*

12. *Reading of paragraph 2 of the judgment authored by Hon'ble H.J. Kania, CJ., reveals that **A.K. Gopalan v. State of Madras AIR 1950 SC 27** was the first case where the different articles on Fundamental Rights came up for discussion before the Supreme Court. Detention was ordered under the Preventive Detention Act, 1950 ("the Detention Act", hereafter). The petitioner therein challenged the vires of the enactment as well as the detention order. The decision of the Supreme Court by its full complement of 6 (six) Hon'ble Judges rendered within 4 (four) months of India becoming a Republic, revealed an approach of circumscribing Article 21 by a literal interpretation. Since then, this Court in **Rustomjee Cawasjee Cooper v. Union of India AIR 1970 SC 564** has held that "the assumption in **A.K. Gopalan** case that certain articles in the Constitution exclusively deal with specific matters and in determining whether there is infringement of the individual's guaranteed rights, the object and the form of the State action alone need be considered, and effect of the laws on fundamental*



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*rights of the individuals in general will be ignored cannot be accepted as correct", and it being settled law that the new needs of a person for liberty in the different spheres of life can now be claimed as a part of personal liberty under Article 21 and these personal liberties cannot be restricted either by legislation or law not satisfying Articles 14 and 19, we need not at all be guided by the view expressed in **A.K. Gopalan (supra)**. Suffice it to observe that **A.K. Gopalan (supra)** was decided by this Court at the dawn of the Constitution, keeping in mind the then social realities, when the true and correct interpretation of the Constitution was yet to take shape and also without the benefit of any precedent on the point, which permits understanding of various points of view of Hon'ble Judges and thereby makes it easy for successors to evolve the dynamic facets of the Fundamental Rights enshrined in the Constitution.*

13. *This Court in **Shibban Lal Saksena v. State of Uttar Pradesh AIR 1954 SC 179** speaking through Hon'ble B.K. Mukherjea, J. (as the Chief Justice then was) quashed an order of preventive detention under the Detention Act reasoning that if one of the two grounds for ordering detention was illegal, the order of detention could not survive on the other ground. Law was laid down in the following words:*

*"8. The first contention raised by the learned counsel raises, however, a somewhat important point which requires careful consideration. It has been repeatedly*



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*held by this Court that the power to issue a detention order under Section 3 of the Preventive Detention Act depends entirely upon the satisfaction of the appropriate authority specified in that section. The sufficiency of the grounds upon which such satisfaction purports to be based, provided they have a rational probative value and are not extraneous to the scope or purpose of the legislative provision cannot be challenged in a court of law, except on the ground of malafides. A court of law is not even competent to enquire into the truth or otherwise of the facts which are mentioned as grounds of detention in the communication to the detenu under Section 7 of the Act. What has happened, however, in this case is somewhat peculiar. The Government itself in its communication dated 13-3- 1953, has plainly admitted that one of the grounds upon which the original order of detention was passed is unsubstantial or non-existent and cannot be made a ground of detention. The question is, whether in such circumstances the original order made under Section 3(1)(a) of the Act can be allowed to stand. The answer, in our opinion, can only be in the negative. The detaining authority gave here two grounds for detaining the petitioner. We can neither decide whether these grounds are good or bad, nor can we attempt to assess in what manner and to what extent each of these*





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*grounds operated on the mind of the appropriate authority and contributed to the creation of the satisfaction on the basis of which the detention order was made. To say that the other ground, which still remains, is quite sufficient to sustain the order, would be to substitute an objective judicial test for the subjective decision of the executive authority which is against the legislative policy underlying the statute. In such cases, we think, the position would be the same as if one of these two grounds was irrelevant for the purpose of the Act or was wholly illusory and this would vitiate the detention order as a whole. \*\*\*"*

14. *In Rameshwar Shaw v. District Magistrate AIR 1964 SC 334, a Constitution Bench speaking through Hon'ble P.B. Gajendragadkar, J. (as the Chief Justice then was) in course of interdicting an order of detention passed under section 3 of the Detention Act held as follows:*

*"7. There is also no doubt that if any of the grounds furnished to the detenu are found to be irrelevant while considering the application of clauses (i) to (iii) of Section 3(1)(a) and in that sense are foreign to the Act, the satisfaction of the detaining authority on which the order of detention is based is open to challenge and the detention order liable to be quashed. Similarly, if some of the grounds supplied to the detenu are so vague that they*



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*would virtually deprive the detenu of his statutory right of making a representation that again may introduce a serious infirmity in the order of his detention. If, however, the grounds on which the order of detention proceeds are relevant and germane to the matters which fall to be considered under Section 3(1)(a), it would not be open to the detenu to challenge the order of detention by arguing that the satisfaction of the detaining authority is not reasonably based on any of the said grounds.*

8. *It is, however, necessary to emphasise in this connection that though the satisfaction of the detaining authority contemplated by Section 3(1)(a) is the subjective satisfaction of the said authority, cases may arise where the detenu may challenge the validity of his detention on the ground of mala fides and in support of the said plea urge that along with other facts which show mala fides the Court may also consider his grievance that the grounds served on him cannot possibly or rationally support the conclusion drawn against him by the detaining authority. It is only in this incidental manner and in support of the plea of mala fides that this question can become justiciable; otherwise the reasonableness or propriety of the said satisfaction contemplated by Section 3(1)(a) cannot be questioned before the Courts."*



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15. In his Counter Affidavit (at pgs. 10 and 11) to the special leave petition, the Commissioner referred to, and extracted a passage from paragraph 8 of the decision of this Court in **Khudiram Das v. The State of West Bengal (1975) 2 SCC 81**, wherein a Bench of 4 (four) Hon'ble Judges of this Court was examining a challenge to an order of detention passed under section 3 of the Maintenance of Internal Security Act, 1971 ("MISA", hereafter) by a district magistrate. We consider it appropriate to notice not only paragraph 8 of the decision rendered by Hon'ble P.N. Bhagwati, J. (as His Lordship then was) in its entirety but also paragraph 9, reading as follows:

"8. Now it is clear on a plain reading of the language of subsections (1) and (2) of Section 3 that the exercise of the power of detention is made dependent on the subjective satisfaction of the detaining authority that with a view to preventing a person from acting in a prejudicial manner, as set out in sub-clauses (i), (ii) and (iii) of clause (a) of sub-section (1), it is necessary to detain such person. The words used in sub-sections (1) and (2) of Section 3 are 'if satisfied' and they clearly import subjective satisfaction on the part of the detaining authority before an order of detention can be made. And it is so provided for a valid reason which becomes apparent if we consider the nature of the power of detention and the conditions on which it can be



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*exercised. The power of detention is clearly a preventive measure. It does not partake in any manner of the nature of punishment. It is taken by way of precaution to prevent mischief to the community. Since every preventive measure is based on the principle that a person should be prevented from doing something which, if left free and unfettered, it is reasonably probable he would do, it must necessarily proceed in all cases, to some extent, on suspicion or anticipation as distinct from proof. Patanjali Sastri, C.J. pointed out in **State of Madras v. V.G. Row [(1952) 1 SCC 410 : AIR 1952 SC 196 : 1952 SCR 597]** that preventive detention is 'largely precautionary and based on suspicion' and to these observations may be added the following words uttered by the learned Chief Justice in that case with reference to the observations of Lord Finlay in **Rex v. Halliday [1917 AC 260]** namely, that 'the court was the least appropriate tribunal to investigate into circumstances of suspicion on which such anticipatory action must be largely based'. This being the nature of the proceeding, it is impossible to conceive how it can possibly be regarded as capable of objective assessment. The matters which have to be considered by the detaining authority are whether the person concerned, having regard to his past conduct judged in the light of the surrounding circumstances and other*



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*relevant material, would be likely to act in a prejudicial manner as contemplated in any of sub-clauses (i), (ii) and (iii) of clause (1) of sub-section (1) of Section 3, and if so, whether it is necessary to detain him with a view to preventing him from so acting. These are not matters susceptible of objective determination and they could not be intended to be judged by objective standards. They are essentially matters which have to be administratively determined for the purpose of taking administrative action. Their determination is, therefore, deliberately and advisedly left by the Legislature to the subjective satisfaction of the detaining authority which by reason of its special position, experience and expertise would be best fitted to decide them. It must in the circumstances be held that the subjective satisfaction of the detaining authority as regards these matters constitutes the foundation for the exercise of the power of detention and the Court cannot be invited to consider the propriety or sufficiency of the grounds on which the satisfaction of the detaining authority is based. The Court cannot, on a review of the grounds, substitute its own opinion for that of the authority, for what is made a condition precedent to the exercise of the power of detention is not an objective determination of the necessity of detention for a specified purpose but the subjective opinion of the*



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*detaining authority, and if a subjective opinion is formed by the detaining authority as regards the necessity of detention for a specified purpose, the condition of exercise of the power of detention would be fulfilled. This would clearly show that the power of detention is not a quasi-judicial power.*

9. *But that does not mean that the subjective satisfaction of the detaining authority is wholly immune from judicial reviewability. The courts have by judicial decisions carved out an area, limited though it be, within which the validity of the subjective satisfaction can yet be subjected to judicial scrutiny. The basic postulate on which the courts have proceeded is that the subjective satisfaction being a condition precedent for the exercise of the power conferred on the Executive, the Court can always examine whether the requisite satisfaction is arrived at by the authority: if it is not, the condition precedent to the exercise of the power would not be fulfilled and the exercise of the power would be bad. There are several grounds evolved by judicial decisions for saying that no subjective satisfaction is arrived at by the authority as required under the statute. The simplest case is whether the authority has not applied its mind at all; in such a case the authority could not possibly be satisfied as regards the fact in respect of which it is*



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*required to be satisfied. **Emperor v. Shibnath Bannerji [AIR 1943 FC 75 : 1944 FCR 1 : 45 Cri LJ 341]** is a case in point. Then there may be a case where the power is exercised dishonestly or for an improper purpose : such a case would also negative the existence of satisfaction on the part of the authority. The existence of 'improper purpose', that is, a purpose not contemplated by the statute, has been recognised as an independent ground of control in several decided cases. The satisfaction, moreover, must be a satisfaction of the authority itself, and therefore, if, in exercising the power, the authority has acted under the dictation of another body as the Commissioner of Police did in **Commissioner of Police v. Gordhandas Bhanji [1951 SCC 1088 : AIR 1952 SC 16 : 1952 SCR 135]** and the officer of the Ministry of Labour and National Service did in **Simms Motor Units Ltd. v. Minister of Labour and National Service [(1946) 2 All ER 201]** the exercise of the power would be bad and so also would the exercise of the power be vitiated where the authority has disabled itself from applying its mind to the facts of each individual case by self-created rules of policy or in any other manner. The satisfaction said to have been arrived at by the authority would also be bad where it is based on the application of a wrong test or the misconstruction*



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*of a statute. Where this happens, the satisfaction of the authority would not be in respect of the thing in regard to which it is required to be satisfied. Then again the satisfaction must be grounded 'on materials which are of rationally probative value'. **Machindar v. King [AIR 1950 FC 129 : 51 Cri LJ 1480 : 1949 FCR 827]**. The grounds on which the satisfaction is based must be such as a rational human being can consider connected with the fact in respect of which the satisfaction is to be reached. They must be relevant to the subject-matter of the inquiry and must not be extraneous to the scope and purpose of the statute. If the authority has taken into account, it may even be with the best of intention, as a relevant factor something which it could not properly take into account in deciding whether or not to exercise the power or the manner or extent to which it should be exercised, the exercise of the power would be bad. **Pratap Singh v. State of Punjab [AIR 1964 SC 72 : (1964) 4 SCR 733]**. If there are to be found in the statute expressly or by implication matters which the authority ought to have regard to, then, in exercising the power, the authority must have regard to those matters. The authority must call its attention to the matters which it is bound to consider."*





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16. *In Icchu Devi Choraria v. Union of India (1980) 4 SCC 531*, the judicial commitment to strike down illegal detention, even when the petition on which Rule was issued did not have the requisite pleadings, was highlighted in the following words:

"5. \*\*\* Where large masses of people are poor, illiterate and ignorant and access to the courts is not easy on account of lack of financial resources, it would be most unreasonable to insist that the petitioner should set out clearly and specifically the grounds on which he challenges the order of detention and make out a prima facie case in support of those grounds before a rule is issued or to hold that the detaining authority should not be liable to do any thing more than just meet the specific grounds of challenge put forward by the petitioner in the petition. The burden of showing that the detention is in accordance with the procedure established by law has always been placed by this Court on the detaining authority because Article 21 of the Constitution provides in clear and explicit terms that no one shall be deprived of his life or personal liberty except in accordance with procedure established by law. This constitutional right of life and personal liberty is placed on such a high pedestal by this Court that it has always insisted that whenever there is any deprivation of life or personal



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liberty, the authority responsible for such deprivation must satisfy the court that it has acted in accordance with the law. This is an area where the court has been most strict and scrupulous in ensuring observance with the requirements of the law, and even where a requirement of the law is breached in the slightest measure, the court has not hesitated to strike down the order of detention or to direct the release of the detenu even though the detention may have been valid till the breach occurred. The court has always regarded personal liberty as the most precious possession of mankind and refused to tolerate illegal detention, regardless of the social cost involved in the release of a possible renegade."

17. In a different context, we may take note of the decision in **Sama Aruna v. State of Telangana (2018) 12 SCC 150** where, S.A. Bobde, J. (as the Chief Justice then was) while construing the provisions of the Act, held:

"16. There is little doubt that the conduct or activities of the detenu in the past must be taken into account for coming to the conclusion that he is going to engage in or make preparations for engaging in such activities, for many such persons follow a pattern of criminal activities. But the question is how far back? There is no doubt that only activities so far back can be considered as furnish a cause for preventive detention in the present. That is,



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*only those activities so far back in the past which lead to the conclusion that he is likely to engage in or prepare to engage in such activities in the immediate future can be taken into account."*

*In holding that the order of detention therein was grounded on stale grounds, the Court held that:*

*"The detention order must be based on a reasonable prognosis of the future behaviour of a person based on his past conduct in light of the surrounding circumstances. The live and proximate link that must exist between the past conduct of a person and the imperative need to detain him must be taken to have been snapped in this case. A detention order which is founded on stale incidents, must be regarded as an order of punishment for a crime, passed without a trial, though purporting to be an order of preventive detention. The essential concept of preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it."*

18. *This was further affirmed by this Court in **Khaja Bilal Ahmed v. State of Telangana (2020) 13 SCC 632**, where the detention order dated 2nd November, 2018 issued under the Act had delved into the history of cases involving the appellant-detenu from the years 2007 - 2016, despite the subjective satisfaction of the Officer not being based on such cases. In*



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*quashing such an order, Hon'ble Dr. D.Y. Chandrachud, J. (as the Chief Justice then was) observed:*

*"23. \*\*\* If the pending cases were not considered for passing the order of detention, it defies logic as to why they were referred to in the first place in the order of detention. The purpose of the Telangana Offenders Act 1986 is to prevent any person from acting in a manner prejudicial to the maintenance of public order. For this purpose, Section 3 prescribes that the detaining authority must be satisfied that the person to be detained is likely to indulge in illegal activities in the future and act in a manner prejudicial to the maintenance of public order. The satisfaction to be arrived at by the detaining authority must not be based on irrelevant or invalid grounds. It must be arrived at on the basis of relevant material; material which is not stale and has a live link with the satisfaction of the detaining authority. The order of detention may refer to the previous criminal antecedents only if they have a direct nexus or link with the immediate need to detain an individual. If the previous criminal activities of the Appellant could indicate his tendency or inclination to act in a manner prejudicial to the maintenance of public order, then it may have a bearing on the subjective satisfaction of the detaining authority. However, in the absence of a clear*



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*indication of a causal connection, a mere reference to the pending criminal cases cannot account for the requirements of Section 3. It is not open to the detaining authority to simply refer to stale incidents and hold them as the basis of an order of detention. Such stale material will have no bearing on the probability of the detenu engaging in prejudicial activities in the future."*

19. We may also refer to the decision of a Constitution Bench of this Court in **Sunil Fulchand Shah v. Union of India (2000) 3 SCC 409** wherein the need to strictly adhere to the timelines, provided as procedural safeguards, was stressed upon. It was held thus:

*"11. \*\*\* The safeguards available to a person against whom an order of detention has been passed are limited and, therefore, the courts have always held that all the procedural safeguards provided by the law should be strictly complied with. Any default in maintaining the time-limit has been regarded as having the effect of rendering the detention order or the continued detention, as the case may be, illegal. The justification for preventive detention being necessity a person can be detained only so long as it is found necessary to detain him. If his detention is found unnecessary, even during the maximum period permissible under the law then he has to be released from detention forthwith. It is really in*



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*this context that Section 10 and particularly the words 'may be detained' shall have to be interpreted."*

23. *There could be little doubt with the thought process that although the executive would pass an order under the preventive detention laws as a preventive or a precautionary measure, its effect viewed strictly from the stand point of the detenu is simply and plainly punitive. Significantly, an order of detention is not relatable to an alleged commission of offence which a court is seized of and, thus, the conduct of the accused complained of is yet to be found blameworthy; on the contrary, since it relates to an anticipated offence based on past conduct, the detenu could well feel that he is at the receiving end of a subjective satisfaction of the executive despite he not being proved to be on the wrong side of the law on any previous occasion. If someone loses his liberty and lands up in prison not having a semblance of a chance to resist or protest, the very circumstance of being put behind bars for such period as specified in the order of detention based on an anticipation that an offence is likely to be committed by him seems to be an aspect which does not sync with the norms and ethos of our very own Constitution and the decisions of this Court in which the concept of 'LIFE' has been explained in such a manner that 'LIFE' has been infused in the letters of Article 21 (see **Common Cause v. Union of India (1999) 6 SCC 667**). Nonetheless, so long clause (3) of Article 22 of the Constitution*



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*itself authorises detention as a preventive measure, there can be no two opinions that none can take exception to such a measure being adopted and it is only a limited judicial review by the Constitutional Courts that can be urged by an aggrieved detenu wherefor too, in examining challenges to orders of preventive detention, the Courts would be loath to interfere with or substitute their own reasoning for the subjective satisfaction arrived at by the detaining authority. Since the object of a preventive detention law is not punitive but preventive and precautionary, ordinarily it is best left to the discretion of the detaining authority.*

25. *Be that as it may, culling out the principles of law flowing from all the relevant decisions in the field, our understanding of the law for deciding the legality of an order of preventive detention is that even without appropriate pleadings to assail such an order, if circumstances appear therefrom raising a doubt of the detaining authority misconceiving his own powers, the Court ought not to shut its eyes; even not venturing to make any attempt to investigate the sufficiency of the materials, an enquiry can be made by the Court into the authority's notions of his power. Without being remotely concerned about the sufficiency or otherwise of the materials on which detention has been ordered, the Court would be justified to draw a conclusion, on proof from the order itself, that the detaining authority failed to realize the extent of his*



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*own powers. This is quite apart from questioning the action for want of sufficient materials that were before the detaining authority. The authority for the detention is the order of detention itself, which the detenu or the Court can read. Such a reading of the order would disclose the manner in which the activity of the detenu was viewed by the detaining authority to be prejudicial to maintenance of public order and what exactly he intended should not be permitted to happen. Any order of a detaining authority evincing that the same runs beyond his powers, as are actually conferred, would not amount to a valid order made under the governing preventive detention law and be vulnerable on a challenge being laid. In the circumstances of a given case, a Constitutional Court when called upon to test the legality of orders of preventive detention would be entitled to examine whether:-*

- (i) the order is based on the requisite satisfaction, albeit subjective, of the detaining authority, for, the absence of such satisfaction as to the existence of a matter of fact or law, upon which validity of the exercise of the power is predicated, would be the sine qua non for the exercise of the power not being satisfied;*
- (ii) in reaching such requisite satisfaction, the detaining authority has applied its mind to all relevant*





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- circumstances and the same is not based on material extraneous to the scope and purpose of the statute;
- (iii) power has been exercised for achieving the purpose for which it has been conferred, or exercised for an improper purpose, not authorised by the statute, and is therefore ultra vires;
- (iv) the detaining authority has acted independently or under the dictation of another body;
- (v) the detaining authority, by reason of self-created rules of policy or in any other manner not authorized by the governing statute, has disabled itself from applying its mind to the facts of each individual case;
- (vi) the satisfaction of the detaining authority rests on materials which are of rationally probative value, and the detaining authority has given due regard to the matters as per the statutory mandate;
- (vii) the satisfaction has been arrived at bearing in mind existence of a live and proximate link between the past conduct of a person and the imperative need to detain him or is based on material which is stale;
- (viii) the ground(s) for reaching the requisite satisfaction is/are such which an individual, with some degree of rationality and prudence, would consider as connected with the fact and relevant to the subject-



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matter of the inquiry in respect whereof the satisfaction is to be reached;

(ix) the grounds on which the order of preventive detention rests are not vague but are precise, pertinent and relevant which, with sufficient clarity, inform the detenu the satisfaction for the detention, giving him the opportunity to make a suitable representation; and

(x) the timelines, as provided under the law, have been strictly adhered to.

Should the Court find the exercise of power to be bad and/or to be vitiated applying any of the tests noted above, rendering the detention order vulnerable, detention which undoubtedly visits the person detained with drastic consequences would call for being interdicted for righting the wrong.

29. The issues with the Detention Order which we need to address are these: first, whether the alleged acts of commission for which the Detenu has been kept under detention are prejudicial to 'public order' and secondly, whether all relevant circumstances were considered or whether extraneous factors weighed in the mind of the detaining authority leading to the conclusion that the Detenu is a habitual offender and for prevention of further crimes by him, he ought to be detained. Incidentally, the issue of whether application of mind is manifest in first ordering detention and then confirming it by



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*continuing such order for a period of 12 (twelve) months upon rejection of the representation filed on behalf of the Detenu by the appellant could also be answered. Needless to observe, we need not examine the second and the incidental issues if the appeal succeeds on the first issue.*

30. *Addressing the first issue first, it has to be understood as a fundamental imperative as to how this Court has distinguished between disturbances relatable to "law and order" and disturbances caused to "public order".*

31. *It is trite that breach of law in all cases does not lead to public disorder. In a catena of judgments, this Court has in clear terms noted the difference between "law and order" and "public order".*

32. *We may refer to the decision of the Constitution Bench of this Court in **Ram Manohar Lohia v. State of Bihar (1966) 1 SCR 709**, where the difference between "law and order" and "public order" was lucidly expressed by Hon'ble M. Hidayatullah, J. (as the Chief Justice then was) in the following words:*

*"54. \*\*\* Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were*



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*disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the public order are.*

55. *It will thus appear that just as 'public order' in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting 'security of State', 'law and order' also comprehends disorders of less gravity than those affecting 'public order'. One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State."*

33. *For an act to qualify as a disturbance to public order, the specific activity must have an impact on the broader*



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*community or the general public, evoking feelings of fear, panic, or insecurity. Not every case of a general disturbance to public tranquillity affects the public order and the question to be asked, as articulated by Hon'ble M. Hidayatullah, CJ. in **Arun Ghosh v. State of West Bengal (1970) 1 SCC 98**, is this: "Does it [read: the offending act] lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed?" In that case, the petitioning detenu was detained by an order of a district magistrate since he had been indulging in teasing, harassing and molesting young girls and assaults on individuals of a locality. While holding that the conduct of the petitioning detenu could be reprehensible, it was further held that it (read: the offending act) "does not add up to the situation where it may be said that the community at large was being disturbed or in other words there was a breach of public order or likelihood of a breach of public order". In the process of quashing the impugned order, the Chief Justice while referring to the decision in *Ram Manohar Lohia (supra)* also ruled:*

"3. \*\*\* Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against



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*individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its affect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. ... It is always a question of degree of the harm and its affect upon the community. ... This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another."*

37. ***Rekha too (supra)*** provides a useful guide. It is said in paragraph 30 that:

*"30. Whenever an order under a preventive detention law is challenged one of the questions the court must ask in deciding its legality is: was the ordinary law of the land sufficient to deal with the situation? If the answer is in the affirmative, the detention order will be illegal. In the present case, the charge against the detenu was of selling expired drugs after changing their labels. Surely the relevant provisions in the Penal Code and the Drugs and Cosmetics Act were sufficient to deal with this situation. Hence, in our opinion, for this reason also the detention order in question was illegal."*

40. *On an overall consideration of the circumstances, it does appear to us that the existing legal framework for maintaining law and order is sufficient to address like offences*



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*under consideration, which the Commissioner anticipates could be repeated by the Detenu if not detained. We are also constrained to observe that preventive detention laws-an exceptional measure reserved for tackling emergent situations-ought not to have been invoked in this case as a tool for enforcement of "law and order". This, for the reason that, the Commissioner despite being aware of the earlier judgment and order of the High Court dated 16th August, 2021 passed the Detention Order ostensibly to maintain "public order" without once more appreciating the difference between maintenance of "law and order" and maintenance of "public order". The order of detention is, thus, indefensible.*

47. *It would not be out of place to examine, at this juncture, whether the Commissioner as the detaining authority formed the requisite satisfaction in the manner required by law, i.e., by drawing inference of a likelihood of the Detenu indulging in prejudicial activities on objective data. Here, we would bear in mind the caution sounded by this Court in **Rajesh Gulati v. Govt. of NCT of Delhi (2002) 7 SCC 129** that a detaining authority should be free from emotions, beliefs or prejudices while ordering detention as well as take note of the judgment and order dated 16th August, 2021 of the High Court on the previous writ petition, instituted by the Detenu's father. On such writ petition, the High Court held as follows:*



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*"Under these circumstances, the apprehension of the detaining authority that since the detenus were granted bail in all the crimes, there is imminent possibility of the detenus committing similar offences which are detrimental to public order unless they are prevented from doing so by an appropriate order of detention, is highly misplaced. [...] In the instant cases, since the detenus are released on bail, in the event if it is found that the detenus are involved in further crimes, the prosecution can apprise the same to the Court concerned and seek cancellation of bail. Moreover, the criminal law was already set into motion against the detenus. Since the detenus have allegedly committed offences punishable under the Indian Penal Code, the said crimes can be effectively dealt with under the provisions of the Indian Penal Code. The detaining authority cannot be permitted to subvert, supplant or substitute the punitive law of land, by ready resort to preventive detention."*

48. *Since the aforesaid order of the High Court went unchallenged and is, thus, binding upon the parties, it was not open to the Commissioner to refer to the very same antecedent offences again in the Detention Order under challenge. There was no direct nexus or link with the immediate need to order detention and we hold extraneous considerations having found their way into the Detention Order.*





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57. *It requires no serious debate that preventive detention, conceived as an extraordinary measure by the framers of our Constitution, has been rendered ordinary with its reckless invocation over the years as if it were available for use even in the ordinary course of proceedings. To unchain the shackles of preventive detention, it is important that the safeguards enshrined in our Constitution, particularly under the 'golden triangle' formed by Articles 14, 19 and 21, are diligently enforced.*

58. *Now, we proceed to answer the incidental issue raised before us. Seldom have we found orders of detention continued, after the advice of the Advisory Board, for less than the maximum period permissible under the relevant law. Consideration of the matter by the Advisory Board, which consists of respectable members including retired High Court judges and those qualified to become High Court judges, was conceived to act as a safety valve against abuse of power by the detaining authority and/or to check the possibility of grave injustice being caused to a detenu. It is one thing to say that the Advisory Board has expressed an opinion that there is sufficient cause for the detention and, therefore, the detention has been continued; yet, it is quite another thing to say that the detention should continue for the maximum permissible period. In the light of sub-section (2) of section 11 read with sub-section (1) of section 12 of the Act, the period for which the detention*



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*should continue is left to be specified by the Government with the stipulation in section 13 thereof that the maximum period shall be 12 (twelve) months from the date of detention. This appears on a plain reading of the relevant statutory provisions. That apart, Mr. Luthra is right in placing reliance on the concurring judgment authored by Hon'ble B.K. Mukherjea, J. in **Dattatraya Moreshwar Pangarkar v. State of Bombay AIR 1952 SC 181** that the duration for which a detenu is to be kept in detention is for the detaining authority to decide and not the Advisory Board. The said opinion finds approval in the decision of the Constitution Bench of this Court in **A.K. Roy v. Union of India (1982) 1 SCC 271**. The period of detention and the terminal point has, therefore, to be decided by the Government. Having observed the uncanny consistency of authorities continuing detention orders under the preventive detention laws for the maximum permissible span of 12 (twelve) months from the date of detention as a routine procedure, without the barest of application of mind, we think that it is time to say a few words with a view to dissuade continuation of detention orders till the maximum permissible duration unless some indication is provided therefor by the concerned Government in the confirmation order.*

59. *Article 22(4) of the Constitution provides that a preventive detention law cannot authorise the detention of a person for a period longer than 3 (three) months unless an*



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*Advisory Board has reported before the expiration of the said period of 3 (three) months that there is, in its opinion, sufficient cause for such detention. It is followed by a non-obstante clause which reads thus:*

*"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)"*

70. *Viewed reasonably, the period of detention ought to necessarily vary depending upon the facts and circumstances of each case and cannot be uniform in all cases. The objective sought to be fulfilled in each case, whether is sub-served by continuing detention for the maximum period, ought to bear some reflection in the order of detention; or else, the Government could be accused of unreasonableness and unfairness. Detention being a restriction on the invaluable right to personal liberty of an individual and if the same were to be continued for the maximum period, it would be eminently just and desirable that such restriction on personal liberty, in the least, reflects an approach that meets the test of Article 14. We, however, refrain from pronouncing here that an order of detention, otherwise held legal and valid, could be invalidated only on the ground of absence of any indication therein as to why the detention has been continued for the maximum period.*



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*That situation does not arise here and is left for a decision in an appropriate case.*

*xxxx”.*

48. The issue in relation to the preventive detention under the Act of 1988 also came up for consideration before the Hon’ble Supreme Court in the matter of Sushanta Kumar Banik Vs. State of Tripura & Ors. reported as 2023 (1) RCR (Criminal) 432. The order of detention was set aside as there was an unreasonable delay between the date of order of detention and actual arrest of the detenu and in the same manner from the date of proposal and passing of the order of detention. It was held that the preventive detention is serious invasion of personal liberty and normal methods open to a person charged with commission of any offence to disprove charge or to prove his innocence at trial are not available to a person preventively detained. Therefore, in preventive detention jurisprudence whatever little safeguards Constitution and enactments authorising such detention provide assume utmost importance and must be strictly adhered to. Relevant extract of the said judgment reads thus:

***“20. It is manifestly clear from a conspectus of the above decisions of this Court, that the underlying principle is that if there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in***



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*passing the detention order and consequently render the detention order bad and invalid because the “live and proximate link” between the grounds of detention and the purpose of detention is snapped in arresting the detenu. A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case.*

22. *As noted above, in the case on hand, in both the cases relied upon by the detaining authority for the purpose of preventively detaining the appellant herein, the appellant was already ordered to be released on bail by the concerned Special Court. Indisputably, we do not find any reference of this fact in the proposal forwarded by the Superintendent of Police, West Tripura District while requesting to process the order of detention. The reason for laying much stress on this aspect of the matter is the fact that the appellant though arrested in connection with the offence under the NDPS Act, 1985, the Special Court, Tripura thought fit to release the appellant on bail despite the rigours of Section 37 of the NDPS Act, 1985. Section 37 of the NDPS Act, 1985 reads thus:*

*“Section 37. Offences to be cognizable and non-bailable.-*

*(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-*

*(a) every offence punishable under this Act shall be*



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***cognizable;***

***(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—***

***(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and***

***(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.***

***(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.***

***28. The preventive detention is a serious invasion of personal liberty and the normal methods open to a person charged with commission of any offence to disprove the charge or to prove his innocence at the trial are not available to the person preventively detained and, therefore, in prevention detention jurisprudence whatever little safeguards***



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*the Constitution and the enactments authorizing such detention provide assume utmost importance and must be strictly adhered to.”*

49. It was also noticed in the above said judgment that the detenu had infact been granted bail after passing the rigours of Section 37 of the NDPS Act and such fact had not been noticed by the High Court of Tripura.

50. The significance of the right of the detenu to be informed about the grounds of his detention without any undue delay along with the right to make a representation had also been considered by the Hon’ble Supreme Court in the matter of Thahira Haris etc. Vs. Government of Karnataka & ors. reported as AIR 2009 Supreme Court 2184. The relevant paragraphs of the said judgment however need not to be extracted.

51. A reference was made to certain other judgments which highlighted the necessity of immediate communication of the grounds of the order of preventive detention and that the failure to adhere to such timelines render the order of detention invalid. A reference was also made to the judgment of Division Bench of Gauhati High Court in the matter of Babul Ahmed Vs. Union of India, WP (Crl.) 25 of 2022 decided on 23.02.2023, wherein it was noticed that the authority took more than 2 ½ months to dispose of the representation submitted by the petitioner, which was found unacceptable in law and the order of preventive detention was set aside.

52. Reliance was also place on judgment of Division Bench of Delhi High Court in the matter of Dharampal Verma Vs. Union of India and others, reported as 2003(2) RCR (Criminal) 526, which re-iterated the need of supplying the documents relied upon by the agency for seeking



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preventive detention and also held that an order of preventive detention can be passed with respect to a person who is already in custody provided the following circumstances:

***“7. From the catena of decision cited above clear picture which emerges is that in the case of a person in custody a detention order can validly be passed if following conditions exists:-***

- (i) where the authority passing the detention order is aware of the fact that he is in actual physical custody;***
- (ii) said authority has reason to believe on the basis of reliable material placed before him;***
  - (a) that there is likelihood of his being released on bail;***  
***and***
  - (b) that after being so released he would in all probability indulge in prejudicial activities; and***
- (iii) It is felt essential by the detaining authority to detain him in order to prevent him from indulging in such activities in future.”***

53. Reliance has been placed on the judgment of the Hon’ble Supreme Court in the matter of **Dharmendra Suganchand Chelawat** Vs. **Union of India and others**, reported as **1990 (1) SCC 746** as well.

54. A reference was also made to the judgment of a Division Bench of this Court in the matter of **Harjit Singh @ Jittu** Vs. **State of Punjab**, reported as **2000 (4) RCR (Criminal) 735**, to contend that as the grounds furnished to the detenu were found to be irrelevant, the satisfaction of the





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detaining authority on which the order of detention was passed would also render the detention order liable to be quashed.

55. No judgment was, however, cited by the learned State counsel and he merely relied upon the observations recorded in the above said precedents cited by the learned counsel for the respective parties that the Court cannot exercise a judicial review of the grounds forming the basis for satisfaction of the authorities and that there is no material available on record on the basis whereof it can be held that the satisfaction recorded by the authority was based upon an extraneous consideration or was for invalid reasons.

**CONSIDERATION:**

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



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for giving rise to reasonable grounds and it usually refers to a standard suggesting rational basis or credible evidence to believe that the detenué 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 detenué 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



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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-



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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 detenu 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.



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**DECISION:**

62. Under the given circumstances and in the light of the position of law referred to above, the orders of preventive detention in respective case are required to be examined.

**CWP No. 22223 of 2023: Sadha Ram @ Bhajna Ram Vs. State of Haryana & Ors.**

63. The impugned order dated 11.08.2023 reads thus:-

“

ANNEXURE P-1

HARYANA GOVERNMENT  
HOME DEPARTMENT

**ORDER**

Whereas, the Director General of Police, Haryana vide letter dated 19.07.2023 has sent proposal for detention of Sh. Sadha Ram @ Bhajna Ram r/o Dera Chanchak Plot, Police Station Gulha District Kaithal under section 3 of the Prevention of illicit Traffic in Narcotic Drugs and Psychotropic Substances Act 1988 (for brevity the Act) along with dossier including letter of Superintendent of Police, Kaithal copies of FIRs, seizure memos, disclosure statements, inventory reports, FSL reports, statements of witnesses and copies of bail orders passed by the respective courts etc.

And whereas, on perusal of record forwarded by the Director General of Police, Haryana it emerges that Sh. Sadha Ram @ Bhajna Ram r/o Dera Chanchak Plot, Police Station Gulha, District Kaithal has been involved in many cases relating to illegal trafficking of psychotropic substances. The



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details of cases along with status of the said cases against him  
are as under:-

Sr. No.	FIR No./ date, u/s, and P.S.	Date of Arrest	Bail or Custody	Acquitted /Convicted	Substance recovered
1.	FIR No. 231 dated 08.11.1996 u/s 15 of NDPS at P.S. Guhla, District Kaithal	10.11.1996	---	Convicted by Trial Court but acquitted in appeal	595 Kilograms poppy husk was recovered from the possession of one Laftain Singh accomplice of Petitioner-Sadha Ram
2.	FIR No. 146 dated 28.08.2003 u/s 15 of NDPS at P.S. Guhla, District Kaithal	--		Convicted by Trial Court but acquitted in appeal.	280 kilograms poppy husk was recovered from the possession of Suba Singh and Sukha Singh accomplice of accused Sadha Ram
3.	FIR No. 114 dated 29.08.2014 u/s 15 of NDPS at P.S. Dirbha District Sangrur.	01.11.2014	--	Acquitted	9.500 kilograms poppy husk was recovered from possession of accused Sadha Ram
4.	FIR No. 120 dated 07.09.2014 u/s 15 of NDPS at P.S. Dirbha District Sangrur.	07.09.2014	---	Convicted and sentence suspended in appeal	56-kilogram poppy husk was recovered from the possession of accused Sadha Ram.
5.	FIR No. 167 dated 24.10.2016 u/s 15, 22 of NDPS at P.S. Dirbha District Sangrur.	24.11.2016	---	Convicted	5-kilogram poppy husk 2000 intoxicating tablets were recovered from the possession of accused Sadha Ram
6.	FIR No. 61dated 19.03.2021 u/s 18 (c), 29 of NDPS at P.S. Guhla, District Kaithal	19.03.2021	On bail	Under Trial	55 Grams opium was recovered from co-accused Gurmukh So Sadha Ram and Rs.2000 drug money was recovered from him.

It has been reported that he i.e. Sh. Sadha Ram @ Bhajna Ram is habitual offender and is involved in possession, sale and transportation of narcotic drugs especially poppy husk, opium and intoxicating tablets. It has been further reported that he is engaged in this illegal trade since last 26 years and he was convicted in four cases by the trial court. Despite being



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convicted and even after getting bad in the cases as per the details mentioned above, he has been actively involved in drug smuggling of psychotropic substances. The report further states that he is kingpin of village Dera Chanchak and many drug smugglers including his family members are working under him. It has been further reported that he is the main link of drug supply chain. He supplies drugs in the adjoining area of Punjab as his village is situated on the bordering area of Punjab and Haryana. It has also been reported that in cased FIR no. 71 dated 02.05.2023 under Section 18 (C) of ND&PS Act. Police Station Guhla, District Kaithal registered against one Ranjit Singh @ Jeetu, disclosure statement was suffered by the said accused Ranjit Singh that he supplies the contraband to different suppliers in the area of Guhla, Cheeka and adjoining border area of Punjab and Sadha Ram is one of the said suppliers, which shows that he is still active in sale and purchase of contraband. By referring the report of Security Branch, Kaithal and also the CID reports, it has been reported that he i.e. Sh. Sadha Ram @ Bhajna Ram is still active in trafficking of narcotic drugs, therefore there is urgent need to issue detention order against him with a view to prevent him from engaging further in such harmful and prejudice activities, which are offence under law as well as disturbing the moral and social system of society. It has been further reported that in order to curb/restrict his illegal activities of trafficking of



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narcotic drugs, the Superintendent of Police, Kaithal is of the considered view that it is a fit case for his preventive detention under relevant provision of the PITNDPS Act, 1988.

And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that there is a documented history of Sh. Sadha Ram @ Bhajna Ram being involved in illegal trade of narcotic substance for the last more than 26 years and despite being convicted in four cases, he has remained actively involved in illegal drug smuggling. Therefore, there is urgent need to prevent Sh. Sadha Ram @ Bhajna Ram r/o Dera Chanchak Plot, Police Station Gulha, District Kaithal from continuing his alleged harmful and prejudicial activities, in the interest of society. Based on the documents and the materials placed before the undersigned and considering the role of Sh. Sadha Ram @ Bhajna Ram R/o Dera Chanchak Plot, Police Station Guhla, District Kaithal in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his continuous propensity and inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances in a planned manner is not only prejudicial to the society at large but it is detriment to the economic security of the State. Hence, there is a need to prevent him from indulging in such activities and therefore, an appropriate detention order is necessary.





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And now, therefore, in exercise of powers conferred by sub-section (1) of section 3 of PITNDPS Act and on careful examination of the record/dossier forwarded by the Director General of Police, Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Sadha Ram @ Bhajna Ram r/o Dera Chanchak Plot, Police Station Gulha, District Kaithal. Being satisfied that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, it is directed to detain Sh. Sadha Ram @ Bhajna Ram /o Dera Chanchak Plot, Police Station Gulha, District Kaithal. On detention, he shall be kept in District Jail, Kaithal. He shall be entitled to all the facilities including food, maintenance. communication etc. as applicable in accordance with relevant rules, instructions and provisions of Jail manual. The discipline and punishment for breach of discipline as applicable to District Jail, Kaithal shall be applicable to him in accordance with relevant rules/instructions.

The Director General of Police, Haryana shall get the detention order executed in accordance with law. A copy of the detention order along with grounds of detention and dossier/essential material including copies of PIR, seizure memo, disclosure statement, inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Sadha Ram @ Bhajna Ramp/o Dera Chanchak Plot, Police Station Gulha.



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District Kaithal under proper receipt. A responsible officer shall be deputed at the time of effecting detention order to the addressee, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken to brief him about the order etc. in the language which he understands and his signature or thumb impression shall be obtained in this behalf. He is to be informed that he has a right to be heard before the Advisory Board.

The Director General of Prisons, Haryana shall arrange detention of accused at District Jail, Kaithal and shall issue appropriate directions to the Superintendent of District Jail, Kaithal in this behalf.

sd/-  
XXXX

Dated, Chandigarh  
The 11.08.2023

Endst. No. 5/15/2022-2HC

Dated the, 16.08.2023

XXXX

sd/-  
XXXX.”.

64. It is evident from a perusal of the above said order that the proposal was sent on 19.07.2023 whereupon the competent authority passed an order of preventive detention on 11.08.2023 which was endorsed on 16.08.2023 i.e. after a lapse of nearly one month of the proposal. The proposal refers to involvement of petitioner-Sadha Ram @ Bhajna Ram in as



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many as 6 criminal antecedents of which last such involvement was nearly 2 ½ years prior to the proposal being mooted by the Director General of Police, Haryana. A reference was made to one FIR No.71 dated 02.05.2023 as an immediate cause which was registered against one Ranjit Singh @ Jeetu and his disclosure statement wherein he stated that the petitioner is one of the suppliers. It was not disputed by the learned counsel for the petitioner that copy of the aforesaid disclosure statement of Ranjit Singh @ Jeetu in FIR No.71 dated 02.05.2023 had not been furnished to the petitioner and that the petitioner is also not arrayed as an accused in the said FIR even though a charge-sheet had already been filed. The last of the cause thus occurred in the year 2021 and that a period of more than two years had lapsed before the process of order of preventive detention had been initiated.

65. I find that there is no live and proximate link between the grounds of detention and the purpose behind detention as a period of more than two years had already elapsed. There is nothing on record on the basis whereof it can be held that the regular process of law was not sufficient or capable of handling the said aspect. There is also nothing on record to hold that there was material reflecting that there was strong likelihood of the petitioner re-engaging himself in the trade of drug and that the disclosure statement of the co-accused in the FIR No.71 dated 02.05.2023 had not been supplied to the petitioner. So much so that the grounds of detention communicated to the petitioner dated 11.08.2023 do not make reference of the aforesaid FIR. Hence, there is a vital discrepancy between the ground of preventive detention communicated to the petitioner and the reasons that weighed with the authority for directing preventive detention. The petitioner



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having not been communicated about the proximate and live link relied upon by the authority for directing preventive detention, has thus been incarcerated on the strength of a material that had not been provided to him. The criminal antecedents of the petitioner although have certain significance, however, needless to mention that the petitioner already stands acquitted in four of the said criminal matters and has been convicted only in one case. The order of preventive detention is in violation of the prescribed mandatory safeguards and thus is liable to be set aside. **The writ petition is accordingly allowed.**

**CWP No. 28451 of 2023- Pal Singh Vs State of Haryana & Ors**

66. The impugned order preventive detention dated 03.11.2023, reads thus:-

“HARYANA GOVERNMENT  
HOME DEPARTMENT

ORDER

Whereas, the Director General of Police, Haryana, vide dated 05.09.2023 has sent a proposal for detention of Sh. Pall Singh son of Sh. Mansha Singh resident of H.N. 51. Near Purana Gurudwara, Ismilpur, Police Station Palla, District, Faridabad, Haryana under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for brevity the Act) alongwith dossier including letter of Deputy Commissioner of Police, Central, Faridabad, copies of



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FIRs, seizure memos, disclosure statements, Inventory reports, FSL reports, statements of witnesses and copies of bail orders passed by the respective courts etc. It has been further intimated that Screening Committee consisting of head of Haryana State Narcotic Control Bureau, representative of CID, representative of State Crime Bureau and District Attorney, Headquarter examined all aspects of the case in its meeting held on 18.08.2023 and recommended for preventive detention of Sh. Pall Singh son of Sh. Mansha Singh. The Director General of Police, Haryana vide letter dated 12.10.2023 has sent further information about involvement Sh. Pall Singh son of Sh. Mansha Singh in another case.

And whereas, on perusal of record forwarded by the Director General of Police, Haryana, it emerges that Sh. Pall Singh son of Sh. Mansha Singh has been involved in many cases relating to illegal trafficking of psychotropic substances. The details of cases along with status of the said cases against him are as under:

Sr no.	FIR No./ date, u/s, and P.S.	Date of Arrest	Bail or Custody	Acquitted /Convicted/under Trial	Substance recovered
1.	FIR No. 188 dated 30.03.2022 u/s 20 of NDPS at P.S. Palla, District Faridabad	30.03.2022	Bail granted on 30.03.2022	Under Trial	320 Gram Ganja
2.	FIR No. 334 dated 10.06.2022 u/s 20 of NDPS at P.S. Palla, District Faridabad	10.06.2022	Bail Granted on 11.06.2022	Under Trial	620 gram Ganja



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3.	FIR No. 529 dated 05.09.2022 u/s 20 of NDPS at P.S. Palla, District Faridabad	05.09.2022	Bail granted on 06.09.2022	Under Trial	460 Gram Ganja
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It has been reported that he i.e. Sh. Pall Singh son of Sh. Mansha Singh has been continuously engaging in illegal procurement and sale of ganja. He has been caught red handed with narcotic drugs and psychotropic substances multiple times. It has been further reported that previous arrests in NDPS cases so far have not deterred him from re-engaging in drug trade and he is continuously misusing the provision of bail to revive his drug trade. It has been further reported that Sh. Pall Singh son of Sh. Mansha Singh is a habitual illegal trafficker of Narcotics drugs and there is possibility that he may again indulge in trafficking of narcotic drugs. It has been further reported that in case he is not detained immediately, in all probability, he will again engage in trafficking of *Ganja*. The report further states that illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy and youth. The report further states that as per report received from CID (H) at present, he is actively involved in the trafficking of narcotic drug and psychotropic substance. It has been further reported that the Deputy Commissioner of Police, Central, Faridabad is of the considered view that the case for his



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preventive detention under relevant provisions of the Act may be considered so as to prevent him from indulging repeatedly in the trafficking of narcotic drug and psychotropic substance. And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that

- Sh. Pall Singh son of Sh. Mansha Singh is habitual illicit drug trafficker and there is a documented history of Sh. Pall Singh son of Sh. Mansha Singh being involved in illegal trade of narcotic substance for the last more than 01 year;
- despite being arrested in various cases from time to time, he has remained actively involved in illegal drug smuggling;
- based on the documents and the materials placed before the undersigned and considering the role of Sh. Pall Singh son of Sh. Mansha Singh in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his continuous propensity and inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances in a planned manner is not only prejudicial to the society at large but it is detriment to the economic security of the State;
- a specific report has been sought as to whether Sh. Pall Singh son of Sh. Mansha Singh is still active in illicit trafficking of narcotic drugs and psychotropic substances and in response thereto, the Director General of Police, Haryana vide letter dated 12.10.2023 has forwarded the report of Deputy Commissioner of Police, Central, Faridabad dated 10.10.2023 wherein it has been reported



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that 03 cases under the provisions of NDPS Act have been registered against Sh. Pall Singh son of Sh. Mansha Singh and he is still active in illicit trafficking of narcotic drugs and psychotropic substances and it is necessary to detain him in the interest of general public;

- there is urgent need to prevent Sh. Pall Singh son of Sh. Mansha Singh from continuing his alleged harmful and prejudicial activities, in the interest of society and therefore, an appropriate detention order is necessary.

And whereas, on careful examination of the record/dossier forwarded by the Director General of Police, Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Pall Singh son of Sh. Mansha Singh under the provisions of the Act.

And now, therefore, being satisfied that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, in exercise of powers conferred by sub-section (1) of section 3 of Act, it is directed to detain Sh. Pall Singh son of Sh. Mansha Singh. On detention, he shall be kept in District Jail, Faridabad. He shall be entitled to all the facilities including food, maintenance, communication etc. as applicable in accordance with relevant rules, instructions and provisions of Jail manual. The discipline and punishment for breach of discipline as applicable to District Jail Faridabad shall be applicable to him in accordance with relevant rules/instructions.

The Deputy Commissioner of Police, Central, Faridabad





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shall get the detention order executed in accordance with law. A copy of the detention order alongwith grounds of detention and dossier/essential material including copies of FIR, seizure memo, disclosure statement, Inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Pall Singh son of Sh. Mansha Singh under proper receipt. A responsible officer shall be deputed at the time of effecting detention order to the addressee, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken to brief him about the order etc. in the language which he understands and his signature or thumb impression shall be obtained in this behalf. The Director General of Prisons, Haryana shall arrange detention of accused at District Jail, Faridabad and shall issue appropriate directions to the Superintendent of District Jail, Faridabad in this behalf.

sd/-

**XXXX**

Endst. No. 5/19/2023-2HC

Dated the, 3.11.2023

**XXXX**

sd/-

**XXXX”.**

67. The proposal in the present case was mooted on 05.09.2023 and culminating in passing an order dated 03.11.2023 i.e. after nearly two months of the proposal. It was further noticed that the last involvement of the petitioner was one year prior to the mooting of proposal of preventive detention. No proximate link or material had been referred to by the



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competent authority for necessitating invocation of power of preventive detention. The proximate link giving rise to the cause of preventive detention was thus more than one year old. The requirement of cause being proximate and not stale is accordingly not satisfied. The substance forming basis of order of preventive detention being old and there being no immediate live link for necessitating preventive detention, the order of preventive detention is merely based upon the past conduct and not on an emergent requirement to detain a person so as to restrain him from indulging in commission of the offences of which there is a strong likelihood in near future. Besides, there is nothing on record for this Court to presume that the order of preventive detention is the sole remedy available with the law enforcement to prevent the petitioner from re-engaging in the said trade of drug. The order is thus hit by the laws laid down by Hon'ble Supreme Court in the matter of Rekha Vs. State of Tamil Nadu, as re-iterated in Ameena Begum (supra) and also asserted in the matter of Sama Aruna Vs. State of Telangana, emphasizing the need for live and proximate link to exist between the past conduct of a person and the imperative need to detain him. An order of preventive detention based on stale incident was held to be regarded as an order of punishment for a crime, passed without trial, though purporting an order of preventive detention. The order of preventive detention in the present case is in relation to the acts for which he is already facing proceedings in accordance with law and does not substantiate as to what event triggered the necessity for directing preventive detention, the impugned order of preventive detention passed by the authorities is thus bad and liable to be set aside. **The writ petition is accordingly allowed.**



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**CWP No. 2392 of 2024- Nadeem Vs State of Haryana & Ors.**

68. The impugned order of preventive detention dated 31.10.2023, reads thus:-

“Haryana Government Home Department

**ORDER**

Whereas, the Director General of Police, Haryana vide letter dated 12.10.2023 has sent a proposal for detention of Sh. Nadeem son of Yamin, resident of Jema Masjid Khadda Colony, Hamida, police station City Yamuna Nagar, District Yamuna Nagar, Haryana under Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for brevity the Act) along with dossier including letter of Superintendent of police, Yamuna Nagar, copies of FIRs, seizure memos, disclosure statements, inventory reports, FSL reports, statements of witnesses and copies of bail orders passed by the respective courts etc. It has been further intimated that a screening committee consisting of head of Haryana State Narcotic Control Bureau, representative of CID, representative of State Crime Bureau and District Attorney, Headquarter examined all aspects of the case in its meeting held on 29.09.2023 and recommended for preventive detention of Sh. Nadeem son of Yasim.

And whereas on perusal of record forwarded by the Director General of police, Haryana, it emerges that Sh.



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Nadeem son of Yamin has been involved in many cases relating to illegal trafficking of psychotropic substances. The details of cases along with status of the said cases against him are as under:

Sr. no.	FIR detail	Substance
1	FIR No. 450 dated 14.08.2018 U/s 21 NDPS Act, P.S. City Yamuna Nagar	4g 6mg smack
2	FIR No. 531 dated 21.08.2020 U/s 21 NDPS Act, P.S. City Yamuna Nagar	25g 54mg smack
3	FIR No. 200 dated 18.03.2021 U/s 21 NDPS Act, P.S. City Yamuna Nagar	4 g smack (supplier)
4	FIR No. 811 dated 03.10.2021 U/s 21 NDPS Act, P.S. City Yamuna Nagar	6g 22mg smack (supplier)
5	FIR No. 621 dated 27.07.2022 U/s 21 NDPS Act, P.S. City Yamuna Nagar	9g 25mg smack

It has been reported that he i.e. Sh. Nadeem son of Yamin is a habitually involved in possession, sale and transportation of narcotic drugs specially smack. He is engaged in this trade since last 05 years. It has been further reported that despite arrested in multiple cases, he is not deterred and committed another offence with higher quality of contraband seized in each case. It has been further reported that he has been caught red-handed with narcotic drugs and psychotropic substances multiple times and he continued to indulge in illicit trafficking of NDPS each time, when he was enlarged on bail. It has been further reported that his activity is highly suspicious and indicates continuous contact with drug suppliers and drug addicts/ consumers. The report further states that illicit traffic in narcotic drug psychotropic substances poses a serious threat to



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the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy and youth. It has been further reported that he is a repeated offender of the illegal trafficking of narcotics drugs and there is possibility that he may again indulge in trafficking of narcotics drugs. It has been further reported that in order to curb/restrict his illegal activities of trafficking of narcotic drugs, the superintendent of police, Yamuna Nagar is of the considered view that it is fit case for his preventive detention under relevant provisions of the Act.

And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that:

- ❖ Sh. Nadeem son of Yamin is a habitual illicit drug trafficker and there is a documented history of Sh. Nadeem son of Yamin being involved in illegal trade of narcotic substance for the last more than 5 years:
- ❖ Despite being arrested in various cases from time to time, he has remained actively involved in illegal drug smuggling;
- ❖ Based on the documents and the materials placed before the undersigned and considering the role of Sh. Nadeem son of Yamin in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his conditions propensity and inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances in a planned manner is not only prejudicial to the society at large but it is detriment to the economic security of the state;



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- ❖ A specific report has been sought regarding conduct and status of cases against Sh. Nadeem son of Yamin and in response thereto, the Superintendent of Police, Yamuna Nagar vide letter dated 09.10.2023 has forwarded a source report, wherein it has been reported that 05 cases under the provisions of NDPS Act have been registered against Sh. Nadeem son of Yamin and he is still active in illicit trafficking of narcotic drugs and psychotropic substances and it is necessary to deter him in the interest of general public;
- ❖ There is urgent to prevent Sh. Nadeem son of Yamin from continuing his alleged harmful and prejudicial activities, in the interest of society and therefore, an appropriate detention order is necessary.

And whereas, on careful examination of the record/dossier forwarded by the Director General of police, Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Nadeem son of Yamin, under the provisions of the Act.

And now, therefore, being satisfied that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, in exercise of powers conferred by sub Section (1) OF SECTION 3 of the Act, it is directed to detain Sh. Nadeem son of Yamin. On detention, he shall be kept in District Jail, Yamuna Nagar. He shall be entitled to all the facilities including food, maintenance, communication etc, as applicable in accordance with relevant rules, instructions and provisions of



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jail manual. The discipline and punishment for breach of discipline as applicable to District Jail, Yamuna Nagar shall be applicable to him in accordance with relevant rules/instructions.

The Superintendent Jail, Yamuna Nagar shall get the detention order executed in accordance with law. A copy of the detention order along with grounds of detention and dossier/essential material including copies of FIR, seizure memo, disclosure statement, inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Nadeem son of Yamin under proper receipt,. A responsible officer shall be deputed at the time of effecting detention order to the addresses, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken to brief him about the order etc. in the language which he understands and his signature or thumb impression shall be obtained in this behalf.

The Director General of Prisons, Haryana shall arrange detention of accused at District Jail, Yamuna Nagar and shall issue appropriate directions to the Superintendent of District Jail, Yamuna Nagar in this behalf.

Dated, Chandigarh  
The 31<sup>st</sup> October, 2023

sd/-  
XXXX

Endst. No. 5/48/2023-2HC

Dated : 02.11.2023

XXXX



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sd/- 02.11.2023

xxxx”.

69. It has been noticed that there is a documented history of the petitioner being involved in illegal trade for the last more than five years and he is involved in as many as five cases under the NDPS Act (all of small and non-commercial quantity). The proposal in the present case was mooted on 12.10.2023 but the same was in relation to the incidents that are as old as five years and last of which such incident was also more than one year ago. The preventive detention has been directed based on the past conduct but with no immediate live link to direct preventive detention. The ratio in the matter(s) of Rekha (supra); Sama Aruna (supra) and as reiterated in Ameena Begum (supra) are thus applicable to the facts of the instant case. There is nothing on record to show that the investigating agency has initiated for cancellation of bail granted to the petitioner. The order of preventive detention is in violation of the prescribed mandatory safeguards and thus is liable to be set aside. **The writ petition is accordingly allowed.**

**CWP No. 2418 of 2024 - Vikram @ Vicky Vs State of Haryana & Ors.**

70. The impugned order of preventive detention dated 30.10.2023, reads thus:

“HARYANA GOVERNMENT  
HOME DEPARTMENT

**ORDER**

Whereas, the Director General of Police, Haryana vide letter dated 10.10.2023 has sent a proposal for detention of Sh. Vikram @ Vicky son of Jagmal resident of Sainsi Basti Jakholi





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Adda, Kaithal, Police Station City Kaithal, District Kaithal Haryana under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for brevity the Act) alongwith dossier including letter of Superintendent of Police, Kaithal, copies of FIRs, seizure memos, disclosure statements, inventory reports, FSL reports, statements of witnesses and copies of bail orders passed by the respective courts etc. It has been further intimated that a Screening Committee consisting of head of Haryana State Narcotic Control Bureau, representative of CID, representative of State Crime Bureau and District Attorney, Headquarter examined all aspects of the case in its meeting held on 06.10.2023 and recommended for preventive detention of Vikram @Vicky.

And whereas, on perusal of record forwarded by the Director General of Police, Haryana, it emerges that Sh. Vikram @ Vicky has been involved in many cases relating to illegal trafficking of psychotropic substances. The details of cases along with status of the said cases against him are as under:-”

Sr no.	FIR No./ date, u/s, and P.S.	Date of Arrest	Bail or Custody	Acquitted /Convicted	Substance recovered
1.	FIR No. 249 dated 04.06.2019 u/s 20 of NDPS at P.S. City Kaithal.	04.06.2019	---	Convicted vide order dated 09.09.2023	735 gram Ganja Phool Patti



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2.	FIR No. 657 dated 26.11.2021 u/s 20 of NDPS at P.S. City Kaithal.	26.11.2021	Bail granted on 21.01.2022	Under Trial	1 kg 200 grams Ganja Phool Patti
3.	FIR No. 515 dated 29.09.2022 u/s 20 of NDPS at P.S. City Kaithal.	29.09.2022	Bail granted on 30.11.2022	Under Trial	1 kg 100 gram Ganja Patti

It has been reported that he i.e. Sh. Vikram @ Vicky is a habitual illicit drug trafficker and is still indulging in sale, purchase and illicit trafficking of contrabands. He has been misusing the concession of bail granted to him. Many drug smugglers including his family members namely Rahul (Cousin), Arun (Cousin), Ishma (Uncle), Jagmal (Father), Rajiv (Cousin), Rajender (Uncle) work with him and he is the link, that hold the chain together. In case he is detained, the drug supply will be stopped in Kaithal and nearby areas and further the drug smugglers of the said area will be demoralized. It has been further reported that he has been caught time and again with small quantity and thus got bail easily by adopting such modus operandi. It has been further reported that Sh. Vikram @ Vicky is a repeated offender of the illegal trafficking of Narcotics drugs and there is possibility that he may again indulge in trafficking of narcotics drugs. It has been further reported that in case he is not detained immediately, in all probability, he will again engage in trafficking of *Ganja Phool Patti*. The report further states that as per report received from



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Security Branch of District Kaithal, be is still active in Illicit trafficking of narcotic drugs and psychotropic substances. It has been further reported that in order to curb/restrict his illegal activities of trafficking of narcotic drugs, the Superintendent of Police, Kaithal is of the considered view that it is a fit case for his preventive detention under relevant provisions of the Act.

And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that:-

- Sh. Vikram @ Vicky is a habitual illicit drug trafficker and there is a documented history of Sh. Vikram @ Vicky being involved in illegal trade of 'narcotic substance' for the last more than 4 years;
- despite being convicted in one case, he has remained actively involved in illegal drug smuggling;
- based on the documents and the materials placed before the undersigned and considering the role of Sh. Vikram @ Vicky in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his continuous propensity and inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances in a planned manner is not only prejudicial to the society at large but it is detriment to the economic security of the State;
- apart from report of Security Branch, a specific report has been sought as to whether Sh. Vikram @ Vicky is still active in Illicit trafficking of narcotic drugs and psychotropic substances and in response thereto, the Superintendent of Police, Kaithal vide letter dated 09.10.2023 has forwarded a Source Report, wherein it



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has been reported that 03 cases under the provisions of NDPS Act have been registered against Sh. Vikram @Vicky and he is still active in Illicit trafficking of narcotic drugs and psychotropic substances and it is necessary to deter him in the interest of general public;

- there is urgent need to prevent Sh. Vikram @ Vicky from continuing his alleged harmful and prejudicial activities, in the interest of society and therefore, an appropriate detention order is necessary.

And whereas, on careful examination of the record/dossier forwarded by the Director General of Police. Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Vikram @ Vicky under the provisions of the Act.

And now, therefore, being satisfied that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, in exercise of powers conferred by sub-section (1) of section 3 of Act, it is directed to detain Sh. Vikram @ Vicky. On detention, he shall be kept in District Jail, Kaithal. He shall be entitled to all the facilities including food, maintenance, communication etc. as applicable in accordance with relevant rules, instructions and provisions of Jail manual. The discipline and punishment for breach of discipline as applicable to District Jail, Kaithal shall be applicable to him in accordance with relevant rules/instructions.

The Superintendent of Police, Kaithal shall get the



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detention order executed in accordance with law. A copy of the detention order alongwith grounds of detention and dossier/essential material including copies of FIR, seizure memo, disclosure statement, inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Vikram @ Vicky under proper receipt. A responsible officer shall be deputed at the time of effecting detention order to the addressee, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken to brief him about the order etc. in the language which he understands and his signature or thumb impression shall be obtained in this behalf.

The Director General of Prisons, Haryana shall arrange detention of accused at District Jail, Kaithal and shall issue appropriate directions to the Superintendent of District Jail, Kaithal in this behalf.

sd/-

XXXX

Dated, Chandigarh  
the 25<sup>th</sup> October, 2023

Endst. No. 5/32/2023-2HC

Dated : 30.10.2023

XXXX

sd/- 30.10.2023

XXXX”.

71. A perusal of the order shows that the proposal was mooted by the Director General of Police, Haryana, on 10.10.2023 in relation to a cause that last occurred on 29.09.2022 i.e. more than one year prior to the mooting of the proposal. The order of preventive detention may even though



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otherwise make out a case for preventive detention on the basis of past antecedents, however, there is no live link between the proximate cause and substance for directing preventive detention viz a viz the order necessitating the immediate passing of an order of preventive detention. There is nothing on record to show that the investigating agency has initiated for cancellation of bail granted to the petitioner. The order thus is based upon the past conduct but suffers from absence of an immediate imperative need to detain. The order can thus be said to be based on stale incidents and is thus liable to be set aside. **The writ petition is accordingly allowed.**

**CWP No. 2450 of 2024: Rajender Singh @ Bhura Vs State of Haryana & Ors.**

72. The impugned order of preventive detention dated 31.10.2023, reads thus:

“HARYANA GOVERNMENT  
HOME DEPARTMENT

**ORDER**

Whereas, the Director General of Police, Haryana vide letter dated 10.10. 2023 has sent a proposal for detention of Sh. Rajender Singh@ Bhura Ranpat R/o Sains Basti Jakhell Adda, Kaithal, PS City Kaithal District Kaithal, Haryana under section 3 of the Prevention of illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for brevity the Act) along with dossier including letter of Superintendent of Police, Kaithal, copies of FIRs, seizure memos, Discloser statements, Inventory reports, FSL reports, statements of witnesses and Copies of bail orders passed by the respective courts etc. It has



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been further intimated that a Screening Committee consisting of head of Haryana State Narcotic Control Bureau, representative of CID, representative of State Come Bureau and District Attorney. Headquarter examined all aspects of the case in As meeting held of 06.10.2023 and recommended for preventive detention of Sh. Rajender Singh @ Bhura S/o Ranpat.

And whereas on perusal of record forwarded by the Director General of Police, Haryana, it emerges that Sh. Rajender Singh @ Bhura S/o Ranpat has been involved in many cases relating to illegal trafficking of psychotropic substances The details of cases along with status of the said cases against him are as under:-

Sr. no.	FIR detail	Substance
1	FIR no 32 Dated 15.01.2020 U/s 20 NDPS Act, P.S. City Kaithal	700 Gms Ganja Phool Patti
2	FIR no 174 Dated 20.04.2020 U/s 20 NDPS Act, P.S. City Kaithal	1 Kg Ganja Phool Patti
3	FIR no 349 Dated 07.07.2022 U/s 20 NDPS Act PS City Kaithal	1 Kg 235 gms Ganja Phool Patti

It has been reported that he le Sh. Rajender Singh @ Bhura S/o Ranpat is a habitual illicit drug trafficker and even his relatives i.e. Rahul (Son), Arun (son), Ishma (brother), Jagmal (brother), Rajiv (brother's son), Vikram (brother's son) are also habitual offenders and are indulged in sale of NDPS due to which various FIRs have been registered against then. He has been caught red-handed with narcotic drugs and psychotropic substance many times. The report further states that as per the report of Security Branch of Kaithal and as per



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report received from ADGP/CID (H) he still sale and purchase of contrabands, it has been further reported that Rajender Singh @Bhura S/o Ranpat is a habitual offender of the illegal trafficking of Narcotics drugs and he is misusing the concession of bail by indulging in activities of illegal trafficking of narcotic drugs. It has been further reported that he is king pin of Sainsi Basti, Jakholi Adda, Kaithal and many drug smugglers including his family members work with him. If he is detained the drug supply will be stopped in this area and the other drug smuggler and his family members will be demoralized. It has been further reported that he has adopted a modus operandi to carry small quantity drugs so that he can get bail easily as when apprehended. It has been further reported that in order to curb/restrict his illegal activities of trafficking of narcotic drugs, the Superintendent of Police, Kaithal is of the considered view that it is a fit case for his preventive detention under relevant provisions of the Act.

And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that:-

- Sh. Rajender Singh @ Bhura S/o Ranpat is a habitual illicit drug trafficker and there is a documented history of Sh. Rajender Singh @ Bhura S/o Ranpat being involved in illegal trade of 'narcotic substance' for the last more than 3 years;
- despite being arrested many times, he has remained actively involved in illegal drug smuggling:





CWP-22223-2023 (O&M) and connected 08 cases

- based on the documents and the materials placed before the undersigned and considering the role of Sh. Rajender Singh @ Bhura S/o Ranpat in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his continuous propensity and inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances in a planned manner is not only prejudicial to the society at large but it is detriment to the economic security of the State;
- a specific report has been sought as to whether Sh. Rajender Singh @ Bhura S/o Ranpat is still active in Illicit trafficking of narcotic drugs and psychotropic substances and in response thereto, the Superintendent of Police, Kaithal vide letter dated 09.10.2023 has forwarded a Source Report, wherein it has been reported that 03 cases under the provisions of NDPS Act have been registered against Sh. Rajender Singh @ Bhura S/o Ranpat and he is still active in Illicit trafficking of narcotic drugs and psychotropic substances and it is necessary to deter him in the interest of general public;
- there is urgent need to prevent Sh. Rajender Singh @ Bhura S/o Ranpat from continuing his alleged harmful and prejudicial activities, in the interest of society and therefore, an appropriate detention order is necessary.

And whereas, on careful examination of the record/dossier forwarded by the Director General of Police, Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Rajender Singh @ Bhura S/o Ranpat under the provisions of the Act.

And now, therefore, being satisfied that, with a view to



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preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, in exercise of powers conferred by sub-section (1) of section 3 of Act, it is directed to detain Sh. Rajender Singh @ Bhura S/o Ranpat. On detention, he shall be kept in District Jail, Kaithal. He shall be entitled to all the facilities including food, maintenance, communication etc. as applicable in accordance with relevant rules, instructions and provisions of Jail manual. The discipline and punishment for breach of discipline as applicable to District Jail, Kaithal shall be applicable to him in accordance with relevant rules/instructions.

The Superintendent of Police, Kaithal shall get the detention order executed in accordance with law. A copy of the detention order along with grounds of detention and dossier/essential material including copies of FIR, seizure memo, disclosure statement, inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Rajender Singh @ Bhura S/o Ranpat under proper receipt. A responsible officer shall be deputed at the time of effecting detention order to the addressee, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken to brief him about the order etc. in the language which he understands and his signature or thumb impression shall be obtained in this behalf.

The Director General of Prisons, Haryana shall arrange



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detention of accused at District Jail, Kaithal and shall issue appropriate directions to the Superintendent of District Jail, Kaithal in this behalf.

sd/-  
XXXX

Dated, Chandigarh  
the 31<sup>st</sup> October, 2023

Endst. No. 5/42/2023-2HC

Dated : 02.11.2023

XXXX

sd/- 02.11.2023  
XXXX”

73. The said order dated 31.10.2023 endorsed on 02.11.2023 is based on a proposal dated 10.10.2023 with respect to the incident that had last occurred more than a year prior to the initiation of proposal for preventive detention. The petitioner was even on bail for a period of one year prior to the mooted proposal for preventive detention under Section 3 of the Act of 1988. There is no live and proximate link existing between the past conduct and the imperative need to detain. For the said reasons, the order of preventive detention cannot be affirmed solely for involvement in cases where the petitioner has already been released on bail. There is nothing on record to show that the investigating agency has initiated for cancellation of bail granted to the petitioner. Additionally, there is no explanation as to how the existing mechanism of law enforcement is not sufficient to curtail the petitioner from indulging in such act. The impugned order dated 31.10.2023 is liable to be set aside. **The writ petition is accordingly allowed.**



CWP-22223-2023 (O&M) and connected 08 cases

**CWP No. 28656 of 2023- Nirmal Singh Vs State of Haryana & Ors.**

74. The impugned order of preventive detention dated 11.08.2023, reads thus:

“HARYANA GOVERNMENT  
HOME DEPARTMENT

ORDER

Whereas, the Director General of Police, Haryana vide letter dated 19.07.2023 has sent a proposal for detention of Sh. Nirmal Singh son of Sh. Narata Singh, resident of village Basola, Police Station-Pinjore, District-Panchkula, Haryana under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for brevity the Act) alongwith dossier including letter of Deputy Commissioner of Police, Security and Law & Order, Panchkula, copies of FIRs, seizure memos, disclosure statements, Inventory reports, FSL. reports, statements of witnesses and copies of bail orders passed by the respective courts etc.

And whereas, on perusal of record forwarded by the Director General of Police, Haryana, it emerges that Sh. Nirmal Singh son of Sh. Narata Singh, resident of Village Basola, Police Station-Pinjore, District- Panchkula, Haryana has been involved in many cases relating to illegal trafficking of psychotropic substances. The details of cases along with status of the said cases against him are as under:-



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Sr. no.	FIR detail	Substance
1	FIR No. 105 Dated 16.04.2019 U/s 21, 61 & 85 NDPS Act, P.S. Chandimandir, Panchkula.	40 Gm Heroin
2	FIR No. 252 Dated 31.05.2022 U/s 18, 29, 61 & 85 NDPS Act, Section 3, 4 PMLA, 2002 and Section 24, 54, 59 Arms Act at P.S. Sector 5, Panchkula.	697 gm (432 gm + 265 gm) opium chance recovery among other items such as two country made pistols with 3 magazines and 11 live ammunition gold Jewellery and currency notes worth approximately Rs. 4 crores 63 lakhs.
3	FIR No. 335 Dated 08.06.2022 U/s 18, 61 & 85 NDPS Act at P.S. Pinjore, Panchkula.	3 kg 564 gm of opium (734 gm + 2 kg 830 gm).

It has been reported that he i.e. Sh. Nirmal Singh has been engaged in the Illegal trafficking of psychotropic substances. Apart from the above cases, the details of 8 cases registered against him i.e. Sh. Nirmal Singh under the provision of NDPS Act during the period from 2002 to 2013 has also been given, wherein, he has been acquitted due to various reasons. By giving details of the cases registered against his relatives/family members, it has been reported that he would again commit an offence under the NDPS Act, if given an opportunity. The report further states that the Deputy Commissioner of Police, Security and Law & Order, Panchkula has proposed that detention of accused Sh. Nirmal Singh under section-3 of PITNDPS Act, 1988 may be considered so as to prevent him from indulging repeatedly in the illegal trafficking of narcotic drug and psychotropic substances.

And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that there is a documented history of Sh.



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Nirmal Singh being involved in illegal trade of 'narcotic substance' for the last more than 20 years and he has remained actively involved in Illegal drug smuggling. Therefore, there is urgent need to prevent Sh. Nirmal Singh son of Sh. Narata Singh, resident of Village Basola, Police Station-Pinjore, District Panchkula, Haryana from continuing his alleged harmful and prejudicial activities in the interest of society, Based on the documents and the materials placed before the undersigned and considering the role of Sh. Nirmal Singh son of Sh. Narata Singh, resident of Village Basola, Police Station-Pinjore, District-Panchkula, Haryana in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his continuous propensity and inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances in a planned manner is not only prejudicial to the society at large but it is detriment to the economic security of the State. Hence, there is a need to prevent him from indulging in such activities and therefore, an appropriate detention order is necessary.

And now, therefore, in exercise of powers conferred by sub- section (1) of section 3 of PITNDPS Act and on careful examination of the record/dossier forwarded by the Director General of Police, Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Nirmal Singh son of Sh. Narata Singh, resident of Village



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Basola, Police Station-Pinjore, District-Panchkula, Haryana. Being satisfied that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, it is directed to detain Sh. Nirmal Singh son of Sh. Narata Singh, resident of Village Basola, Police Station-Pinjore, District-Panchkula, Haryana. On detention, he shall be kept in Central Jail, Ambala. He shall be entitled to all the facilities including food, maintenance, communication etc as applicable in accordance with relevant rules, Instructions and provisions of Jail manual. The discipline and punishment for breach of discipline as applicable to Central Jail, Ambala shall be applicable to him in accordance with relevant rules/instructions.

The Director General of Police, Haryana shall get the detention order executed in accordance with law. A copy of the detention order alongwith grounds of detention and dossier/essential material including copies of FIR, seizure memo, disclosure statement, inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Nirmal Singh son of Sh. Narata Singh, resident of Village Basola, Police Station-Pinjore, District-Panchkula, Haryana under proper receipt. A responsible officer shall be deputed at the time of effecting detention order to the addressee, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken



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to brief him about the order etc. in the language which he understands and his signature or thumb Impression shall be obtained in this behalf. He is to be informed that he has a right to be heard before the Advisory Board.

The Director General of Prisons, Haryana shall arrange detention of accused at Central Jail, Ambala and shall issue appropriate directions to the Superintendent of Central Jail, Ambala in this behalf.

sd/-  
XXXX

Dated, Chandigarh  
11<sup>th</sup> August, 2023

Endst. No. 2/2/2023-2HC

Dated the 14<sup>th</sup> August 2023

XXXX

sd/-  
XXXX”.

75. It is evident from perusal of the same that in all the three FIRs where the petitioner is on bail, the last of the cause arose on 08.06.2022 and that the proposal was mooted after passing of more than a year of the incident. There is no live and proximate link existing between the past conduct and the imperative need as mandated by the Hon’ble Supreme Court in its judgments. There is nothing on record to show that the investigating agency has initiated for cancellation of bail granted to the petitioner. The order of preventive detention thus suffers from the want of necessary ingredients and the same is liable to be set aside. **The writ petition is accordingly allowed.**





CWP-22223-2023 (O&M) and connected 08 cases

**CWP No. 6139 of 2024:- Iqbal @ Kranti Vs State of Haryana & Ors.**

76. The impugned order of preventive detention has been passed based on proposal dated 19.07.2023 submitted by the Director General of Police, Haryana, culminating in passing an order dated 04.09.2023 endorsed on 06.09.2023 with respect to the past conduct that had last occurred in June-2022 when the petitioner was still in custody. The order of detention is extracted as under:-

“

Annexure P-5

HARYANA GOVERNMENT  
HOME DEPARTMENT

ORDER

Whereas, the Director General of Police, Haryana vide letter dated 19.07.2023 has sent a proposal for detention of Sh. Iqbal @ Kranti son of Sokat Ali resident of Gujarwada Mohalla Pinangwa, Police Station Pinangwa, District Nuh, Haryana under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for brevity the Act) alongwith dossier including letter dated 04.07.2023 of Superintendent of Police, Nuh, copies of FIRs, seizure memos, disclosure statements, inventory reports, FSL reports, statements of witnesses and copies of orders of dismissal of bail applications passed by the respective courts etc.

And whereas, on perusal of record forwarded by the Director General of Police, Haryana, it emerges that Sh. Iqbal @ Kranti son of Sokat Ali resident of Gujarwada Mohalla Pinangwa, Police Station Pinangwa, District Nuh, Haryana has



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been involved in cases relating to illegal trafficking of psychotropic substances. The details of cases along with status of the said cases against him are as under:

Sr. no.	FIR No./ date, u/s, and P.S.	Date of Arrest	Bail or Custody	Acquitted /Convicted/ Trial	Substance recovered
3.	FIR No. 46 dated 09.02.2022 u/s 20(b)(II)(c) of NDPS Act at P.S. Punhana, Nuh, Haryana	12.05.2022	In custody	Under Trial	113 kg 170 Gram Ganja was recovered in this case from house of accused Satpal and he stated in his disclosure statement that accused Rarif, the petitioner- Iqbal and Niyamat delivered Narcotic Substance i.e., Ganja
4.	FIR No. 125 dated 12.05.2022 u/s 20 of NDPS Act at P.S. Punhana, Nuh, Haryana	13.06.2022	In custody	Under Trial	38 kg 860-gram narcotic substance i.e. Ganja was recovered from him i.e. accused Akhtar and he stated in his disclosure statement that this brother-in-law Iqbal Kranti.

It has been reported that he i.e. Sh. Iqbal @ Kranti is habitually involved in possession, sale and transportation of narcotic drugs especially Ganja. It has been further reported that he is engaged in illegal trade of heavy quantity of drugs and has been arrested in two cases. By giving details of the case registered against his wife namely Samina, it has been reported that both of them are indulged in drug trafficking. It has been further reported that he i.e. Sh. Iqbal alias Kranti is still in judicial custody and has been continuously making all efforts to get bail. He applied for bail in FIR No. 46/2022, which was dismissed by the court of Sh. Sandeep Duggal, Additional Sessions Judge, Nuh on dated 19.07.2022. Accused Iqbal again applied for bail in both FIR, No. 46/2022 and FIR No.



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125/2022, which were dismissed by the court of Sh. Sandeep Duggal, Additional Sessions Judge Nuh on dated 19.09.2022. It has been further reported that accused Iqbal filed an application for bail bearing No CRM-M 50769/2022 in the Hon'ble Punjab and Haryana High Court, which was dismissed on 15.03.2023. The report further states that Sh. Iqbal alias Kranti is a repeated offender of illegal trafficking of narcotic substance and there is high possibility that he may again indulge in trafficking of narcotic drugs. Therefore, there is an urgent need to issue detention order against him with a view to prevent him from engaging in such harmful and prejudicial activities, which are offences under Law. It has been reported that in order to curb/restrict his illegal activities of trafficking of narcotic drugs, the Superintendent of Police, Nuh is of the considered view that it is a fit case for his preventive detention under relevant provisions of the PITNDPS Act, 1988.

And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that there is a documented history of Sh. Iqbal @Kranti being involved in illegal trade of narcotic substance. Therefore, there is urgent need to prevent Sh. Iqbal @ Kranti son of Sokat Ali resident of Gujarwada Mohalla Pinangwa, Police Station Pinangwa, District Nuh, Haryana from continuing his alleged harmful and prejudicial activities in the interest of society. Based on the documents and the



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materials placed before the undersigned and considering the role of Sh. Iqbal @ Kranti in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his continuous propensity and inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances is not only prejudicial to the society at large but it is detriment to the economic security of the State. Hence, there is a need to prevent him from indulging in such activities and therefore, an appropriate detention order is necessary.

And now, therefore, in exercise of powers conferred by sub- section (1) of section 3 of PITNDPS Act and on careful examination of the record/dossier forwarded by the Director General of Police, Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Iqbal Kranti son of Sokat Ali resident of Gujarwada Mohalla Pinangwa, Police Station Pinangwa, District Nuh, Haryana being satisfied that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, it is directed to detain Sh. Iqbal @ Kranti son of Sokat Ali resident of Gujarwada Mohalla Pinangwa, Police Station Pinangwa, District Nuh, Haryana. On detention, he shall be kept in District Jail, Nuh. He shall be entitled to all the facilities including food, maintenance, communication etc. as applicable in accordance with relevant rules, instructions and provisions of Jail manual.



CWP-22223-2023 (O&M) and connected 08 cases

The discipline and punishment for breach of discipline as applicable to District Jail. Noh shall be applicable to him in accordance with relevant rules/instructions.

The Director General of Prisons, Haryana shall get the detention order executed in accordance with law A copy of the detention order alongwith grounds of detention and dossier/essential material including copies of FIR, seizure memo, disclosure statement, inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Iqbal @ Kranti son of Sokat Ali resident of Gujarwada Mohalla Pinangwa, Police Station Pinangwa, District Nuh, Haryana under proper receipt. A responsible officer shall be deputed at the time of effecting detention order to the addressee, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken to brief him about the order etc. in the language which he understands and his signature or thumb impression shall be obtained in this behalf. He is to be informed that he has a right to be heard before the Advisory Board.

The Director General of Prisons, Haryana shall also arranging detention of accused at District Jail, Nuh and shall issue appropriate directions to the Superintendent of District Jail, Nuh in this behalf.

Dated, Chandigarh the 04.09.2023

sd/-  
XXXX



CWP-22223-2023 (O&amp;M) and connected 08 cases

Endst. No. 4/8/2022-2HC

Dated : 06.09.2023

**XXXX**sd/-  
**XXXX.”**

77. It was noticed that the bail of the petitioner was dismissed in March 2023 and that in the event of the petitioner being released on bail, he is likely to indulge in similar offence. It is evident that the said order of preventive detention had been passed in anticipation of the petitioner being released on bail. The criminal antecedents of the petitioner shows that he has been involved in two cases of commission of offences under the NDPS Act and that even his wife is involved in the said business. Thus, the process of preventive detention was initiated in an anticipation of the petitioner being released on bail and his possible involvement in re-engaging in the trade coupled with having received commercial quantity of *Ganja*, it cannot be perceived that the cause necessitating passing of an order of preventive detention was stale. Besides, the past conduct and involvement of the petition coupled with his family members being so engaged in similar activities, the satisfaction of the authority cannot be said to be mis-placed or misconceived. The grounds of detention made a specific reference to the evidence that had been taken by the investigating agency reflecting his active involvement in the said trade and also the fact that his brother-in-law as well as his wife were also indulging in the same trade. There is nothing on record to suggest that there has been an inordinate delay in passing of the order or that the documents relied upon by the police had not been supplied to the petitioner. Besides, the timelines as prescribed under the Act of 1988 were duly followed and there was no violation of the same. The



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complaint/Dossier comprising of 340 pages was duly supplied to the family members of petitioner on 13.09.2023 and he was apprised about the remedy of appeal before the State Government, Central Government and Advisory Board but no representation was submitted. The opinion of the Advisory Board was also obtained within the prescribed time limit and the order of preventive detention and its confirmation was lawfully passed. I find that there is no illegality or infirmity in order of preventive detention. **The writ petition is accordingly dismissed.**

**CWP No. 6841 of 2024:- Vikram @ Vicky S/o Rulia Ram Vs State of Haryana & Ors.**

78. Pursuant to the proposal dated 05.09.2023 order of preventive detention was passed on 16.10.2023 and endorsed on 30.10.2023. The same was eventually confirmed vide order dated 12.01.2024 directing detention of the petitioner for a period of 11 months. The relevant part of the order reads thus:

“HARYANA GOVERNMENT  
HOME DEPARTMENT

**ORDER**

Whereas, the Director General of Police, Haryana vide letter dated 05.09.2023 has sent a proposal for detention of Sh. Vikram alias Vicky son of Rulia Ram, resident of Gali No. 01, Gandhi Nagar, Thanesar, Police Station Krishna Gate, District Kurukshetra, Haryana under section 3 of the Prevention of Illicit Traffic In Narcotic Drugs and Psychotropic Substances Act, 1988 (for brevity the Act), alongwith dossier including letter of Superintendent of Police, Kurukshetra, copies of FIRs,



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seizure memos, disclosure statements, inventory reports, FSL reports, statements of witnesses and copies of bail orders passed by the respective courts etc. It has been further intimated that a Screening Committee consisting of head of Haryana State Narcotic Control Bureau, representative of CID, representative of State Crime Bureau and District Attorney, Headquarter examined all aspects of the case in its meeting held on 02.08.2023 and recommended for preventive detention of Sh. Sh. Vikram alias Vicky son of Rulia Ram.

And whereas, on perusal of record forwarded by the Director General of Police, Haryana, it emerges that Sh. Vikram alias Vicky son of Rulia Ram has been involved in many cases relating to illegal trafficking of psychotropic substances. The details of cases along with status of the said cases against him are as under:-

Sr. no.	FIR detail	Substance
1	FIR No. 685 dated 09.08.2016u/s 20 NDPS Act, P.S. City Thanesar	1 kg 800 g Ganja
2	FIR No. 151 dated 18.02.2017 u/s 20 NDPS Act, P.S. City Thanesar	3 kg 500 g Ganja
3	FIR No. 498 dated 25.05.2017 u/s 20 NDPS Act, P.S. City Thanesar	2 kg 300g Ganja
4	FIR No. 460 dated 27.11.2019 u/s 20,29 NDPS Act, P.S. Ladwa	500 g Ganja from co-accused Kamal s/o Bhagirath
5	FIR No. 159 dated 27.04.2021 u/s 20, 29 NDPS Act, P.S. Kurukshetra	3 kg 50 g Ganja from co-accused Dharam Pal s/o Munsu Ram
6	FIR No. 689 dated 12.11.2021 u/s 20, 29 NDPS Act, P.S. Kurukshetra	1 kg 95 g Ganja from co-accused-Subhash @ Kala s/o Ramesh@ Ram Chander
7	FIR No. 694 dated 14.11.2021 u/s 20, 29 NDPS Act, P.S. Krishna Gate	2 kg 185 g Ganja from one Rajesh@ Rajesh Kumar s/o Babu Ram

It has been further reported that family members of Sh.





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Vikram alias Vicky are also involved in illegal trafficking of Narcotic Drugs and Psychotropic Substances. The said relatives and the number of cases registered against them under NDPS-Act are as under:-

1. Rulia Ram (father)-04 Cases
2. Somwati (mother)-01 Case
3. Amit Kumar (brother)-04 Cases
4. Ashu (nephew)-02 Cases
5. Suman (wife)-01 Case

It has been reported that he i.e. Sh. Vikram alias Vicky son of Rulia Ram is a habitual illicit drug trafficker. He has been caught red-handed with narcotic drugs and psychotropic substances multiple times. It has been further reported that previous arrests in NDPS cases so far have not deterred him from re-engaging in drug trade and he is continuously misusing the provision of bail to revive his drug trade. It has been further reported that Sh. Vikram alias Vicky son of Rulia Ram is a repeated offender of the illegal trafficking of Narcotics drugs and there is possibility that he may again indulge in trafficking of narcotics drugs and may also abscond to avoid the ongoing trial in above mentioned cases. It has been further reported that in case he is not detained immediately, in all probability, he will again engaged in the smuggling of Ganja, In and around Gandhi Nagar, Kurukshetra. The report further states that illicit traffic in narcotic drugs and psychotropic substances poses a serious



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threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy and youth. It has been further reported that as per report received from Security Branch of District Kurukshetra, at present, he is actively involved in illicit trafficking of narcotic drugs and psychotropic substances. It has been further reported that in order to curb/restrict his illegal activities of trafficking of narcotic drugs, the Superintendent of Police, Kurukshetra is of the considered view that it is a fit case for his preventive detention under relevant provisions of the Act.

And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that:-

- Sh. Vikram alias Vicky son of Rulia Ram is a habitual illicit drug trafficker and there is a documented history of Sh. Vikram alias Vicky son of Rulia Ram being involved in illegal trade of 'narcotic substance' for the last more than 7 years;
- despite being convicted in one case, he has remained actively involved in illegal drug smuggling;
- based on the documents and the materials placed before the undersigned and considering the role of Sh. Vikram alias Vicky son of Rulia Ram in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his continuous propensity and inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances in a planned manner is not only prejudicial to the society at large but it is detriment to the



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- economic security of the State;
- a specific report has been sought as to whether Sh. Vikram alias Vicky son of Rulia Ram is still active in illicit trafficking of narcotic drugs and psychotropic substances and in response thereto, the Director general of Police, Haryana vide letter dated 10.10.2023 has forwarded the report of Superintendent of Police, Kurukshetra dated 05.10.2023, wherein, it has been reported that cases under the provisions of NDPS Act are presently pending against Sh. Vikram alias Vicky son of Rulia Ram and he is still active in illicit trafficking of narcotic drugs and psychotropic substances and it is necessary to deter him in the interest of general public;
  - there is urgent need to prevent Sh. Vikram alias Vicky son of Rulia Ram from continuing his alleged harmful and prejudicial activities, in the interest of society and therefore, an appropriate detention order is necessary.

And whereas, on careful examination of the record/dossier forwarded by the Director General of Police, Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Vikram alias Vicky son of Rulia Ram under the provisions of the Act.

And now, therefore, being satisfied that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, in exercise of powers conferred by sub-section (1) of section 3 of Act, it is directed to detain Sh. Vikram alias Vicky son of Rulia Ram. On detention, he shall be kept in District Jail, Kurukshetra. He shall be entitled to all the



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facilities including food, maintenance, communication etc. as applicable in accordance with relevant rules, instructions and provisions of Jail manual. The discipline and punishment for breach of discipline as applicable to District Jail, Kurukshetra shall be applicable to him in accordance with relevant rules/instructions.

The Superintendent of Police, Kurukshetra shall get the detention order executed in accordance with law. A copy of the detention order alongwith grounds of detention and dossier/essential material including copies of FIR, seizure memo, disclosure statement, inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Vikram alias Vicky son of Rulia Ram under proper receipt. A responsible officer shall be deputed at the time of effecting detention order to the addressee, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken to brief him about the order etc. in the language which he understands and his signature or thumb impression shall be obtained in this behalf.

The Director General of Prisons, Haryana shall arrange detention of accused at District Jail, Kurukshetra and shall issue appropriate directions to the Superintendent of District Jail, Kurukshetra in this behalf.

sd/-  
**XXXX**

Dated, Chandigarh  
the 16<sup>th</sup> October, 2023



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Endst. No. 5/18/2023-2HC

Dated : 30.10.2023

XXXX

sd/- 30.10.2023

XXXX”.

79. It is evident from a perusal of the order dated 16.10.2023 that as many as seven cases have been registered against the petitioner, out of which he has been acquitted in two cases, he is on bail in four cases and he has been convicted in one case. The last of the said FIRs was registered on 14.11.2021, in which he has been granted bail. It was also noticed that the entire family of the petitioner was involved in the said trade and there were as many as four cases against his father, one case against his mother, four cases against his brother, two cases against his nephew and one case against his wife, apart from above seven cases against the petitioner. 34 pages of grounds of detention giving details of all such incidents including involvement of his members in a number of cases were furnished. The dossier contained as many as 1090 pages of the material relied upon by the State Government and no representation was furnished by the petitioner against the order of preventive detention. It is evident that even though there are repeated incidents of involvement of petitioner in commission of offences along with members of his family, however, the incident giving rise to initiate proceedings for preventive detention was more than a year old as on the date when the process was initiated and there was no live and proximate link giving rise to an impending necessity for directing preventive detention. The Police has also not taken any steps to seek cancellation of bail that had been granted to the petitioner considering his repeated involvement nor any details or the timelines when FIR against other family



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members were registered has been given. The status of the said FIRs is also not forthcoming. The order of preventive detention is thus hit by the law laid down by the Hon'ble Supreme Court in matter(s) of **Rekha** (supra); **Sama Aruna** (supra) and as reiterated in **Ameena Begum** (supra). There is nothing on record to show that the investigating agency has initiated for cancellation of bail granted to the petitioner. The impugned order of preventive detention dated 16.10.2023 is accordingly **set aside** and **the writ petition is allowed**.

**CWP No. 4936 of 2024- Jiwan Singh @ Thikra Vs State of Haryana & Ors.**

80. The order of preventive detention in the present case has been passed on 26.10.2023, endorsed on 30.10.2023 based on a proposal dated 10.10.2023. The order of preventive detention dated 26.10.2023, reads thus:

“HARYANA GOVERNMENT  
HOME DEPARTMENT

**ORDER**

Whereas, the Director General of Police, Haryana vide letter dated 10.10.2023 has sent a proposal for detention of Sh. Jiwan Singh alias Thikra son of Madan Singh resident of Brahman Wala, District Fatehabad, Haryana under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for brevity the Act) alongwith dossier including letter of Superintendent of Police, Fatehabad, copies of FIRs, seizure memos, disclosure statements, inventory reports, FSL reports, statements of witnesses and copies of bail orders passed by the respective



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courts etc. It has been further intimated that a Screening Committee consisting of Head of Haryana State Narcotic Control Bureau, representative of CID, representative of State Crime Bureau and District Attorney, Headquarter examined all aspects of the case in its meeting held on 29.09.2023 and recommended for preventive detention of Sh. Jiwan Singh alias Thikra son of Madan Singh.

And whereas, on perusal of record forwarded by the Director General of Police, Haryana, it emerges that Sh. Jiwan Singh alias Thikra son of Madan Singh has been involved in many cases relating to illegal trafficking of psychotropic substances. The details of cases along with status of the said cases against him are as under:-

Sr. no.	FIR detail	Substance
1	FIR No. 206 dated 09.04.2015 u/s 15, 25 NDPS Act, P.S. Ratia	24 kg Poppy Husk (Supplier)
2	FIR No. 374 dated 24.06.2015 u/s 15 NDPS Act, P.S. Ratia	2.5kg Poppy Husk (Supplier)
3	FIR No. 406 dated 15.07.2016 u/s 15, 27A NDPS Act & Sections 147, 149, 186, 224, 225, 332, 353 of IPC P.S. Ratia	190 kg Poppy Husk (Supplier)
4	FIR No. 550 dated 06.10.2018u/s 15 NDPS Act, P.S. Ratia	1.2 kg Poppy Husk
5	FIR No. 288 dated 14.12.2021 u/s 15 NDPS Act, P.S. Ratia	82 kg Poppy Husk (Supplier)
6	FIR No. 222 dated 08.08.2022 u/s 15, 29 NDPS Act, P.S. Ratia	545g Poppy Husk (Supplier)
7	FIR No. 117 dated 04.05.2023 u/s 15(b) NDPS Act, P.S. Ratia	20 kg Poppy Husk (Supplier)

It has been reported that he i.e. Sh. Jiwan Singh alias Thikra son of Madan Singh is a habitual illicit drug trafficker. He has been indulging in illegal trafficking of contraband and



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he is the chief supplier of contraband in the region. It has been further reported that he has supplied intoxicating material to the accused persons of the above said cases and he was arrested upon disclosures statements of the said accused persons. It has been further reported that his previous arrests in seven cases registered under NDPS, Act has not deterred him so far from re-engaging in drug trade and he is continuously misusing the provision of bail to revive his drug trade. It has been further reported that Sh. Jiwan Singh alias Thikra son of Madan Singh is a repeated offender of the illegal trafficking of Narcotics drugs and there is possibility that he may again indulge in trafficking of narcotics drugs. It has been further reported that in case he is not detained immediately, in all probability, he will again engaged in smuggling of narcotic substances and his supply it in Fatehabad and neighboring areas. The report further states that illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy and youth. It has been further reported that in order to curb/restrict his illegal activities of trafficking of narcotic drugs, the Superintendent of Police, Fatehabad is of the considered view that it is a fit case for his preventive detention under relevant provisions of the Act.





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And whereas, on examination and consideration of the record/dossier forwarded by the Director General of Police, Haryana, it is observed that:-

- Sh. Jiwan Singh alias Thikra son of Madan Singh is a habitual illicit drug trafficker and there is a documented history of Sh. Jiwan Singh alias Thikra son of Madan Singh being involved in illegal trade of 'narcotic substance' for the last more than 08 years;
- despite his previous arrests in seven cases registered under NDPS, Act, he has remained actively involved in illegal drug smuggling, which is even evident from the recent FIR(s) registered against him;
- based on the documents and the materials placed before the undersigned and considering the role of Sh. Jiwan Singh alias Thikra son of Madan Singh in illicit traffic of narcotic drugs and psychotropic substances, the undersigned is satisfied that his continuous propensity and Inclination to indulge in acts of smuggling and peddling of drugs and psychotropic substances in a planned manner is not only prejudicial to the society at large but it is detriment to the economic security of the State;
- a specific report has been sought as to whether Sh. Jiwan Singh alias Thikra son of Madan Singh is still active in Illicit trafficking of narcotic drugs and psychotropic substances and in response thereto, the Superintendent of Police, Fatehabad vide letter dated 09.10.2023 has forwarded a Source Report, wherein it has been reported that 07 cases under the provisions of NDPS Act have been registered against Sh. Jiwan Singh alias Thikra son of Madan Singh and he is still active in Illicit trafficking of narcotic drugs and psychotropic substances and it is



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- necessary to deter him in the interest of general public;
- there is an urgent need to prevent Sh. Jiwan Singh alias Thikra son of Madan Singh from continuing his alleged harmful and prejudicial activities, in the interest of society and therefore, an appropriate detention order is necessary.

And whereas, on careful examination of the record/dossier forwarded by the Director General of Police, Haryana and other supporting documents, the undersigned finds sufficient grounds for detention of Sh. Jiwan Singh alias Thikra son of Madan Singh under the provisions of the Act.

And now, therefore, being satisfied that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary to detain him, accordingly, in exercise of powers conferred by sub-section (1) of section 3 of Act, it is directed to detain Sh. Jiwan Singh alias Thikra son of Madan Singh. On detention, he shall be kept in Central Jail-II, Hisar He shall be entitled to all the facilities including food, maintenance, communication etc. as applicable in accordance with relevant rules, instructions and provisions of Jail manual. The discipline and punishment for breach of discipline as applicable to Central-II, Hisar shall be applicable to him in accordance with relevant rules/instructions.

The Superintendent of Police, Fatehabad shall get the detention order executed in accordance with law. A copy of the detention order alongwith grounds of detention and



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dossier/essential material including copies of FIR, seizure memo, disclosure statement, inventory report, FSL report, statement of witnesses etc. shall be served upon Sh. Jiwan Singh alias Thikra son of Madan Singh under proper receipt. A responsible officer shall be deputed at the time of effecting detention order to the addressee, who will explain in details the contents of this order along with grounds of detention. Even assistance of any other person may be taken to brief him about the order etc. in the language which he understands and his signature or thumb impression shall be obtained in this behalf.

The Director General of Prisons, Haryana shall arrange detention of accused at Central-II, Hisar and shall issue appropriate directions to the Superintendent of Central-II, Hisar in this behalf.

sd/-  
XXXX

Dated, Chandigarh  
the 26<sup>th</sup> October, 2023

Endst. No. 5/40/2023-2HC

Dated : 30.10.2023

XXXX

sd/- 30.10.2023  
XXXX”

81. It is evident from a perusal of the said order that as many as seven cases have been noticed by the Police against the petitioner and the petitioner has been acquitted in three cases while remaining four cases are pending trial. The last of the FIRs was registered on 04.05.2023 i.e. about



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four months prior to initiation of the proposal. He was arrested in the said case on 13.06.2023. No detail pertaining to grant of bail to the petitioner in the said FIR has been mentioned. The petitioner has also not disclosed about the date when he was released on bail in the said FIR. It seems that the proposal for seeking order of preventive detention would have been mooted around the time when the petitioner may have been granted bail in FIR No. 117 dated 04.05.2023, in which he was arrested on 13.06.2023. Noticing that there was an involvement of the petitioner in as many as seven different cases within a period of eight years reflects that the satisfaction recorded by the authority cannot be labeled as out-rightly misconceived. It is also not a case where the live and proximate cause for invoking Section 3 of the Act of 1988 and seeking preventive detention was for a stale event. The close proximity of the last involvement of the petitioner with the passing of the order of preventive detention lends credence to the order of preventive detention passed by the authority. It is also submitted that pursuant to the order passed on 26.10.2023 and the petitioner was detained on 28.11.2023 and the complete file/dossier was supplied to him. He was also apprised about his right to file appeal/representation before the State Government, Central Government and Advisory Board but no representation was submitted. The Advisory Board prepared its report within the prescribed time leading to confirmation of the order of preventive detention by the competent authority. The impugned order in question cannot be said to suffer from violation of the points of consideration by the Constitutional Court while testing the legality of the order as culled out by the Hon'ble Supreme Court and re-iterated in the judgment of **Ameena Begum** (supra).



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82. The High Court would thus not sit in a review over the satisfaction recorded by the competent authority. The order of preventive detention dated 26.10.2023 is accordingly affirmed and **the writ petition is dismissed.**

83. It is also evident that the tests as specified in the matter of **Ameena Begum** (supra) are otherwise satisfied in the cases of **Iqbal @ Kranti Vs. State of Haryana & Ors.** and **Jiwan Singh @ Thikra Vs. State of Haryana & Ors.** The impugned orders have been passed after considering the entire material and circumstances and the order shows an independent application of mind to the totality of circumstances. The order is not based on any extraneous consideration but stems from the statutory mandate. The order is based on material which is rational and of probative value and reflect objective prudence. The grounds are precise and not vague. Hence, the tests as laid down are satisfied. Once the said hurdles are crossed, the subjective satisfaction of the authority, based on objective material, past conduct and his circumstances cannot be substituted for that of the High Court. An exercise of power, subject to statutory procedures and statutory safeguards, would not be ordinarily interfered with. The parameters in other writ petitions (apart from **Iqbal @ Kranti Vs. State of Haryana & Ors.** and **Jiwan Singh @ Thikra Vs. State of Haryana & Ors.**) are **allowed.**

84. **Ordered accordingly.**

(VINOD S. BHARDWAJ)  
JUDGE

**02.07.2024**

*Mangal Singh*

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