

GAHC010217302024



AS:12820-DB

2024:GAU-

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : W.P.(Crl.)/33/2024

PRAMOD YADAV @ TINKU
S/O- LATE PANNA YADAV,
R/O- VILLAGE- SARAJ CHOTU,
P.O AND P.S- MUGALSARAI, DIST- CHANDAULI, UTTAR PRADESH

VERSUS

THE UNION OF INDIA AND 5 ORS
THROUGH SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE (PITNDPS DIVISION), NEW DELHI, PIN-110001

2:THE JOINT SECRETARY
TO THE GOVT. OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE (PITNDPS DIVISION)
2ND FLOOR
ROOM NO-202
JEEVAN TARA BUILDING
PARLIAMENT STREET
NEW DELHI
PIN-110001

3:THE DEPUTY SECRETARY
TO THE GOVT. OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE (PITNDPS DIVISION)
2ND FLOOR
ROOM NO-202
JEEVAN TARA BUILDING
PARLIAMENT STREET
NEW DELHI

PIN-110001

4:THE UNDER SECRETARY
TO THE GOVT. OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE (PITNDPS DIVISION)
2ND FLOOR
ROOM NO-202
JEEVAN TARA BUILDING
PARLIAMENT STREET
NEW DELHI
PIN-110001

5:THE ZONAL DIRECTOR
NARCOTICS BUREAU
GUWAHATI ZONAL UNIT
GUWAHATI 22

6:THE STATE ADVISORY BOARD
(PITNDPS ACT 1988)

C
O- THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-0

Advocate for the Petitioner : MR P KATAKI, S J DUTTA,C SAIKIA,MS. B CHETRY,MR. M K DAS

Advocate for the Respondent : DY.S.G.I., MR. K K PARASAR (R- 1 TO 4),GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 12.12.2024
(K.R. Surana, J)

Heard Mr. M.K. Das, learned counsel for the petitioner. Also heard Mr. K.K. Parasar, learned CGC, appearing for respondent nos.1 to 4; Mr.

S.C. Keyal, learned standing counsel for the respondent no.5; and Mr. P. Sarmah, learned Additional Senior Govt. Advocate appearing for respondent no.6.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner is seeking a writ of *habeas corpus* for setting aside (1) the detention order issued under F. No. U-11011/14/2024-PITNDPS dated 14.05.2024, passed by the Joint Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division); (2) Memorandum of rejection issued vide F. No. U-11013/32/2024-PITNDPS dated 21.06.2024, issued by the Under Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division); (3) Order under F. No. U-11012/15/2024-PITNDPS dated 16.07.2024, passed by the Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division).

3. The pleaded case of the petitioner is that the detention order dated 14.05.2024, assailed in this writ petition, was actually served upon the petitioner on 24.05.2024. A representation against the detention order was submitted by the petitioner on 13.06.2024 before the jail authorities, which was addressed to (1) the Joint Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division); (2) the Secretary to the Govt. of India, Ministry of Finance, Department of Revenue; (3) Chairman, Advisory Board (ATNDPS), Assam; (4) the Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue. The said representation was forwarded on 13.06.2024 to the 4 (four) addressees referred above. In the meanwhile, on 10.06.2024, the respondent no.3 had made a reference before the respondent no.6 as per the provision of Section 9(b) of the Prevention of

Illicit Traffic in Narcotics Drugs and Psychotropic Substances Act, 1988 (PITNDPS Act for short) so as to enable the respondent no.6 to make a report as per Article 22(4)(a) of the Constitution of India and a proceeding was initiated. Thereafter, by order dated 21.06.2024, it was conveyed that the detaining authority had rejected the representation submitted by the petitioner, which was served upon the petitioner on 27.06.2024. Thereafter, by an order dated 16.07.2024, it was conveyed by the Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division) that the Central Govt. had thereby confirmed the detention order dated 14.05.2024, thereby directing the petitioner, namely, Pramod Yadav @ Tinku, son of Late Pannalal Yadav be detained for a period of 1 (one) year from the date of his detention i.e. 24.05.2024. Thereafter, by an order dated 18.07.2024, it was conveyed that the Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division) had rejected the representation dated 13.06.2024, submitted by the petitioner as there is no merit.

4. The learned counsel for the petitioner has submitted that he is urging four broad issues for quashing of the impugned detention order, which is summarized as follows, viz., (1) that the detention order dated 14.05.2024 was served on 24.05.2024, without explaining the inordinate delay, which has vitiated the detention order; (2) that the grounds for detention was served to the petitioner only on 28.05.2024, wherein the requirement of compliance of section 37 of the NDPS Act, 1985 was not taken into consideration; (3) in the list of documents relied upon in issuing the detention order, the copy of certified CDR and CAF bearing reference to NCB Crime No. 01/23 was not served on the petitioner; and (4) there was inordinate delay in disposal of the representation of the petitioner, which vitiates the detention order.

5. Elaborating the aforesaid four grounds, it was submitted on point no.1, it was stated that the detention order against the petitioner, though passed on 14.05.2024 was served to the petitioner on 24.05.2024 and the delay in serving the same to the petitioner vitiated the detention order.

6. On point no.2, it was stated that the petitioner arrested in connection with Mungiakami P.S. Case No. 01/2022 dated 19.01.2022 under section 8(c)/20(b)(ii)(C)/29 of the NDPS Act, and he was enlarged on bail by order dated 20.09.2022, passed by the Special Judge, Khowai, Tripura. Thereafter, the petitioner was again arrested on 03.02.2023 in connection with NCB Guwahati Crime No. 01/2023 dated 02.01.2023 under section 8(c)/21(c)/29 of the NDPS Act. It was also submitted that while passing the order of detention and its confirmation, the concerned authorities did not take into consideration rigours attached to Section 37 of the NDPS Act. It was submitted that Section 37 of the NDPS Act contains adequate safeguards against grant of bail by Courts in a mechanical manner.

7. In connection with point no.3, regarding non-service of documents relating to NCB Crime No. 1/2023, it is submitted that the non-service of documents which was relied upon for passing the detention order vitiates the detention order. Referring to the list of relief upon documents, appended to the ground of detention, it is submitted that the supplementary/ additional documents filed regarding certified CDR and CAF which is referred to in serial no.9, relating to NCB, Guwahati Crime No.1/2023 stated to be the documents which were not furnished to the petitioner. It is also submitted that the non-supply of the said documents was stated in paragraph 7 of the representation submitted by the petitioner.

8. In connection with the point no.4, regarding inordinate delay in

disposal of the representation, it is submitted that the petitioner has submitted a representation on 13.06.2024, the same was forwarded by the Superintendent of Central Jail, Guwahati, on the same day i.e. 13.06.2024 and the representation was dismissed by the Under Secretary to the Govt. of India vide memorandum dated 21.06.2024 had intimated that the detaining authority i.e. Joint Secretary (PITNDPS) had rejected the same. However, the said memorandum was served on the petitioner on 27.06.2024. Thereafter, the Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, PITNDPS Division by an order dated 16.07.2024 confirmed the detention order for a period of one year from the date of petitioner's detention i.e. 24.05.2024. Only thereafter, on 18.07.2024, the representation was rejected by the same authority i.e. Deputy Secretary to the Govt. of India. Accordingly, it is submitted that the inordinate delay in disposal of the representation vitiates the detention order.

9. In support of his submissions, the following cases have been cited by the learned counsel for the petitioner, viz., (i) *Rekha v. State of Tamil Nadu*, (2011) 0 Supreme(SC) 369, (ii) *Binod Singh v. District Magistrate, Dhanbad & Ors.*, (1986) 3 Crimes(SC) 284, (iii) *Jiten Das v. Union of India & Ors.*, 2022 (2) GLT 444, (iv) *Ms. Regina Begum v. The Union of India & Ors.*, (2021) 0 Supreme(Gau) 498, (v) *Paonam Diana Devi v. Union of India & Ors.*, (2021) 4 GLT 584, (vi) *Debarshi Kashyap v. Union of India & Ors.*, (2021) 0 Supreme(Gau) 651, (vii) *Lala Paita v. State of Manipur*, (1999) 3 GLT 236.

10. Per contra, on the projected delay in service of detention order dated 14.05.2024 to the petitioner on 24.05.2024, which is the point no.1 urged by the learned counsel for the petitioner, the learned CGC has submitted that such delay is not at all fatal because during this period, the petitioner was

arrested in connection with NCB Guwahati Crime No. 1/2023 and therefore, the detention order being executed on 24.05.2024 operates from that date. It is submitted that on 24.05.2024 when detention order was served to the petitioner, it was read over to the petitioner in Hindi and explain to him in Hindi and he was informed of his right to file a representation if he so chooses and was also explained to him. In acknowledgment of the detention order being read and explained to him in Hindi, the petitioner had put his signature on 24.05.2024. With regard to point no.2, it is reiterated that on 24.05.2024, the detention order was executed and read over and explained to the petitioner in Hindi and only the Hindi translated copy of ground for detention and relied upon documents were provided to the petitioner on 28.05.2024 and accordingly, there was no delay in furnishing the detention order and grounds of detention and relied upon documents. In this regard, annexure-A to the affidavit was referred to. In response to the point no.3 urged by the learned counsel for the petitioner it is submitted that all the documents were provided to the petitioner and moreover it is submitted that non-furnishing of certified CDR and CAF which was already filed in the Court of Special Judge, Kamrup, Amingaon on 02.08.2023, which is duly disclosed in paragraph 1.1(h) of the grounds of detention.

11. In response to point no.4, it is submitted that there was no delay in the disposal of the representation of the petitioner, inasmuch as the detaining authority, being the Joint Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS) had rejected the representation on 13.06.2024. Thereafter, the detention order was confirmed by the Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS) on 16.07.2024 and thereafter, the representation was rejected on 18.07.2024.

12. It is submitted that the petitioner was initially arrested in connection with Mungiakami P.S. Case No. 01/2022. He was granted bail by the learned Special Judge, Khowai, Tripura on 20.09.2022 and he was found involved in NCB Guwahati Crime No.1/2023 which related to seizure of commercial quantity of 260 packets containing 6483 codeine based Phensedyl cough syrup which was recovered from the false made inside the truck which was seized on 02.01.2023.

13. The learned standing counsel for the NCB, i.e. respondent no.5 as well as the learned Addl. Senior Govt. Advocate for respondent no.6 have both submitted that the detention order was passed by the competent authority, the NCB and the Advisory Board are not involved in a process of either passing the detention order or for disposal of the representation. Hence, they have adopted the submissions made by the learned CGC.

14. Considered the submissions as the case cited by the learned counsel for the petitioner.

15. As four points have been urged by the learned counsel for the petitioner, the following points of determination arise for decision in this case:-

- a. Whether the service of detention order dated 14.05.2024 to the petitioner on 24.05.2024 has vitiated the detention order.
- b. Whether the lack of consideration of the rigours of section 37 of the NDPS Act, 1985 in the grounds for detention, served to the petitioner on 28.05.2024 vitiates the detention order.
- c. Whether alleged non-supply of copy of certified CDR and CAF, referred to in the list of relied documents at serial no.9, has vitiated the detention order.

- d. Whether there was inordinate delay in disposal of the representation of the petitioner, and whether it vitiates the detention order.

16. In the context of authority which is required to dispose of the representation of a person under detention order, it would be appropriate to refer to paragraph 29 of the case of *Haradhan Saha v. The State of West Bengal & Ors.*, AIR 1974 SC 2154: (1974) 0 Supreme (SC) 254, decided by Constitution Bench of the Supreme Court of India, which is quoted below from (1974) 0 Supreme(SC) 254:

29. Principles of natural justice are an element in considering the reasonableness of a restriction where Article 19 is applicable. At the stage of consideration by the State Government, the obligation of the State Government is such as Article 22 (5) implies. Section 8 of the Act is in complete conformity with Article 22(5) because this section follows the provisions of the Constitution. If the representation of the detenu is received before the matter is referred to the Advisory Board, the detaining authority considers representation. If a representation is made after the matter has been referred to the Advisory Board the detaining authority will consider it before it will send representation to the Advisory Board.

17. In the present case, the representation of the petitioner was rejected by the detaining authority i.e. Joint Secretary to the Govt. of India (PITNDPS) on 21.06.2024. On the same day i.e. 21.06.2024, a Memorandum dated 21.06.22024 was issued by the Under Secretary to Govt. of India (PITNDPS), wherein it is mentioned that a reference under Section 9(d) of the PITNDPS Act was made on 10.06.2024 to the State Advisory Board, Assam and that as per intimation received from the Secretary, Advisory Board, PITNDPS vide letter dated 19.06.2024, it has been decided to summon the Investigating Officers to appear before the Advisory Board along with all relevant case diary, records etc. at the venue mentioned therein on 28.06.2024 and 29.06.2024 and that the date for production of detenu was fixed on 29.06.2024. Therefore, in

view of the observations of the Supreme Court of India made in paragraph 29 of the case of *Haradhan Saha (supra)*, as the representation is found to have been made after matter was referred to the Advisory Board, the detaining authority has the competence to consider it before sending the representation to the Advisory Board.

18. It may be stated that nothing is placed before this Court to show that all the four authorities to which the representation of the petitioner was submitted i.e. (1) the Joint Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division); (2) the Secretary to the Govt. of India, Ministry of Finance, Department of Revenue; (3) Chairman, Advisory Board (ATNDPS), Assam; (4) the Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, are all required to independently pass an order upon the representation submitted by the petitioner.

19. It would be now relevant to quote the provision of Section 3 and 4 of the PITNDPS Act below:

3. Power to make orders detaining certain persons.-

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

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

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

after the detention, but ordinarily not later than five days, and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days, from the date of detention.

4. Execution of detention orders.- *A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973 (2 of 1974).*

20. Therefore, in light of the provisions of Section 4 of the PITNDPS Act, 1988, the detention order would become effective not from the date of its issuance but on being executed in the manner provided for execution of warrant of arrest under the CrPC. Hence, the Court is inclined to hold that notwithstanding that the detention order was passed on 14.05.2024, the said detention order would become effective for the petitioner on and from 24.05.2024, the date on which he was served with the said detention order. Therefore, the petitioner cannot be said to have suffered any prejudice on that account.

21. Accordingly, in respect of point of determination no. (a), the Court is of the considered opinion that the impugned detention order, having become effective on and from 24.05.2024, it cannot be said that there was any delay which can have the effect of vitiating the detention order in any manner. On 24.05.2024, when the detention order was served to the petitioner, and read over and explained in Hindi, he was under judicial custody in connection with NCB Crime No. 1/2022. Thus this is not a case where the petitioner was detained under PITNDPS Act prior to 24.05.2024. The point of determination no. (a) is answered accordingly.

22. The point of determination no. (b) is taken up now. In this case the petitioner was arrested in connection with Mungiakami P.S. Case No. 01/2022 dated 19.01.2022 under section 8(c)/20(b)(ii)(C)/29 of the NDPS Act.

He was enlarged on bail by order dated 20.09.2022, passed by the Special Judge, Khowai, Tripura. However, the petitioner was thereafter arrested on 03.02.2023 in connection with NCB Guwahati Crime No. 01/2023 dated 02.01.2023 under section 8(c)/21(c)/29 of the NDPS Act. Thus, in this case, despite being released on bail in connection with petitioner's involvement in commercial quantity of narcotic drugs and psychotropic substances, the investigating agencies found sufficient material regarding involvement of the petitioner is a repetitive offence of commercial quantity of contraband narcotic drugs and psychotropic substances.

23. Nonetheless, it is seen from the contents of the "grounds for detention", which is accompanying the detention order that the Detaining Authority had not taken into consideration the provisions section 37 of the NDPS Act, 1985. It would now be appropriate to quote the provisions of section 37 of the NDPS Act, 1985:-

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 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.

24. The Supreme Court of India, in the case of *Rekha (supra)*, had observed as follows:-

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 Indian 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.

25. It would be apposite to refer to paragraph 19 of the case of *Binod Singh (supra)*, which is quoted below:-

7. It is well settled in our Constitutional framework that the power of directing preventive detention given to the appropriate authorities must be exercised in exceptional cases as contemplated by the various provisions of the different statutes dealing with preventive detention and should be used with great deal of circumspection. There must be awareness of the facts necessitating preventive custody of a person. for social defence. If a man is in custody and there is no imminent possibility. of his being released, the power of preventive detention should not be exercised. In the instant case when the actual order of detention was served upon the detenu, the detenu was in jail. There is no indication that this factor or the question that the said detenu might be released or that there was such a possibility of his release, was taken into consideration, by the detaining authority properly and seriously before the service of the order. A bald statement is merely an ipse dixit of the officer. If there were cogent materials for thinking that the detenu might be released then these should have been made apparent. Eternal vigilance on the part of the authority charged with both law and order and public order is the price which the democracy in this country extracts from the public officials in order to protect the fundamental freedoms of our citizens. In the affidavits on behalf of the detaining authority though there are indications that transfer of the detenu from one prison to another was considered but the need to serve the detention order while he was in custody was not properly considered by the detaining authority in the light of the relevant factors. At least the records of the case do not indicate that. If that is the position, then however disreputable the antecedents of a person might have been, without consideration of all the aforesaid relevant factors, the detenu could not have been put into preventive custody. Therefore, though the order of preventive detention when it was passed was not invalid and on relevant considerations, the service of the order was not on proper consideration.

26. The learned Single Judge of this Court has followed the said dictum in the case of *Jiten Das (supra)*. No material has been placed before the Court for enabling the Court to take a view different from the decision of the Supreme Court of India in the case of *Binod Singh (supra)*.

27. Under such circumstances, the lack of consideration of the rigours of section 37 of the NDPS Act, 1985 in the grounds for detention, served to the petitioner on 28.05.2024 has to be held to have vitiated the detention order. Therefore, on point of determination no. (b), the Court is inclined to hold that non- consideration of the provision of section 37 of the NDPS Act in the grounds of detention has vitiated the detention order.

28. The point of determination no. (c) is taken up now. In the said context, it was submitted by the learned CGC that in paragraph 6 of their affidavit-in-opposition, the respondent nos. 1 to 4 have specifically stated that the grounds of detention and relied upon documents, including Hindi translated copies were provided to the petitioner on 28.05.2024. However, the petitioner has stated in his representation dated 13.06.2024 that he was not served with the copies of the certified CDR and CAF. The said statement is reiterated in paragraph 23 of the instant writ petition. In the affidavit-in-opposition filed by the respondent nos. 1 to 4, the reply to paragraph 23 of the writ petition is given in para 14 of their affidavit-in-opposition. However, it has not been denied that the petitioner was not served with the copies of certified CDR and CAF. Therefore, by applying the doctrine of non-traverse, the respondent nos. 1 to 4 are deemed to have admitted that the copies of certified CDR and CAF were not supplied to the petitioner alongwith the detention order or with the grounds of detention.

29. The learned CGC had submitted that the said documents were

available in the case record of NCB Crime No. 1/2023. Be that as it may, assuming that copy of the CDR and CAF were a part of the case record and even if it is assumed that the said two documents were supplied to the petitioner in course of trial of NCB Crime No. 1/2023, yet it cannot be said that the said documents were supplied to the petitioner alongwith the detention order dated 14.05.2024., or with the "Grounds of Detention". The petitioner is under preventive detention and he has a statutory and constitutional right to submit a representation against the detention order. Therefore, a duty is cast on the Detaining Authority to furnish to the petitioner the detention order, the grounds of detention and copies of all the documents which have been relied upon by the Detaining Authority while issuing the detention order. Unless all the documents are furnished, it cannot be expected that the petitioner would be able to submit a proper representation in the absence of the documents. The list of documents supplied to the petitioner does not specify that the copies of the said CDR and CAF are not furnished as it was served to the petitioner in connection with the documents supplied to him in connection with NCB Crime No. 1/2023.

30. Accordingly, the point of determination no. (c) is answered in the affirmative and in favour of the petitioner by holding that the non-supply of copies of certified CDR and CAF, referred to in the list of relied documents at serial no.9 is found to have vitiated the detention order.

31. We now take up the point of determination no. (d). The representation by the petitioner was submitted to the Superintendent of District Jail, Guwahati on 13.06.2024. Considering that the representation was disposed of on 21.06.2024, which is within eight days from the submission of representation, it cannot be said that there was any inordinate delay. The

Memorandum of disposal of representation was issued on 21.06.2024. As per the contents of the said memorandum, the original copy of the memorandum was sent to the Superintendent, Central Jail, Lokhra, Guwahati, and served to the petitioner on 27.06.2024. Therefore, taking into account the time that may take the order to reach jail at Guwahati from Delhi, it cannot be held that there was any inordinate delay as such transmission of Memorandum dated 21.06.2024 from Delhi so as to be served to the petitioner on 27.06.2024, is likely to consume some days. Therefore, the point of determination no. (d) is also answered in the negative and against the petitioner by holding that there was no delay in the disposal of the petitioner's representation dated 13.06.2024 by the Detaining Authority, i.e. Joint Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division), as communicated by the Under Secretary to the Govt of India of the said Department.

32. Therefore, on point of determination no. (b) and (c), referred in the foregoing paragraphs, this writ petition deserves to be allowed. The following impugned orders, viz., (1) detention order under F. No. U-11011/14/2024- PITNDPS dated 14.05.2024, issued by the Joint Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division); (2) Memorandum of rejection issued vide F. No. U-11013/32/2024-PITNDPS dated 21.06.2024, issued by the Under Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division); and (3) Order under F. No. U-11012/15/2024-PITNDPS dated 16.07.2024, passed by the Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue (PITNDPS Division), are all set aside. Accordingly, this writ petition stands allowed to the extent as indicated herein.

33. In so far as the prayer for release of the petitioner is concerned,

it is referred hereinbefore that the petitioner was already in custody in connection with NCB Crime No. 1/2023, when detention order was served. The petitioner has not been able to demonstrate that he was granted bail in the said case. Therefore, no order for release of the petitioner is called for in connection with this writ petition.

34. There shall be no order as to cost.

JUDGE

JUDGE

Comparing Assistant