

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****Cr.WP No. 34 of 2026****Date of decision: 08.07.2026**

|                       |        |                |
|-----------------------|--------|----------------|
| Ranjan Sharma         |        | ...Petitioner  |
|                       | Versus |                |
| State of H. P. & Ors. |        | ...Respondents |

*Coram****The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.******The Hon'ble Mr. Justice Bipin C. Negi, Judge.****Whether approved for reporting?***For the Petitioner:** Mr. Parth Sagar, Advocate.**For the Respondents:** Mr. Varun Chandel, Additional Advocate General.**G. S. Sandhawalia, Chief Justice (Oral)**

Challenge in the present petition is to the extension order dated 23.04.2026 (Annexure P-3), whereby the petitioner's detention which had been ordered on 23.01.2026 as such was extended for an additional period of three months on the basis of the opinion dated 30.03.2026 of the Advisory Board constituted under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for short 'the **PIT NDPS Act**').

2. Learned counsel for the petitioner has submitted that initial detention as such was on the basis of three FIRs and he had been acquitted in the first FIR in question bearing FIR No. 16/2021, dated 18.03.2021 and the representation had been filed on 06.05.2026 (Annexure P-4), which was rejected on 02.06.2026 (Annexure R-3) by

the competent authority while coming to the conclusion that acquittal in one of the FIRs does not affect the validity of the preventive detention and the detention was essential to prevent the detainee from engaging in the illicit trafficking of narcotic drugs and psychotropic substances. It is accordingly argued that apart from the non-application as such of the mind, it was a valid ground and even the judgment of acquittal dated 04.04.2026, passed by the Special Judge-II, Shimla, has not been considered to give any plausible reason that it was not applicable and that the prayer for revocation of the extension order dated 23.04.2026 was not justified. It is also submitted that the detention order was based on the three FIRs in question and the last one was lodged on 13.09.2024, as much as delay of a year and 4 months and the issue of live link as such was missing. The details of the FIRs are as under:-

- "i. In FIR No. 16/21 dated 18.03.2021, Police Station Kotkhai, District Shimla, H.P. under sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act (ND&PS Act) 1985, wherein approximately 7.30 grams of Heroin/Chitta was recovered from him;*
- ii. In FIR No. 256/2022 dated 16.10.2022, Police Station Shimla (West), District Shimla, Himachal Pradesh, under sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act), 1985, wherein approximately 255.83 grams of Heroin/Chitta was recovered from him;*
- iii. In FIR No. 47/2024 dated 13.09.2024, Police Station Kotkhai, District Shimla, H.P. under sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act (ND&PS Act)*

*1985, wherein approximately 30.640 grams of Heroin/Chitta was recovered from him.”*

3. Learned counsel for the State has submitted that the petitioner-detenu is in the contact of various persons involved in the drugs trafficking in Kotkhai area, in such circumstances, the detention is justified as such and the Advisory Board had taken into consideration the opinion of the Pradhan of the concerned Panchayat as such.

4. It is settled principle that preventive detention is a draconian power and such has to be strictly applied and cannot be applied in a routine. There has to be a proximate and live link as such and apparently, the recommendation has been made by the Director General of Police on 08.01.2026, after more than a year and 4 months and then the detention order was passed on 23.01.2026. The Apex Court has strongly held that the whole purpose of recommendation would be frustrated if the detention order is only to be implemented after a considerable period. The argument by the counsel for the petitioner that he has been released on bail in FIR No. 47/2024, dated 13.09.2024, would only go on to show that between the period of his release on bail on 05.05.2025 till the detention order has been passed, there were no adverse activities of the petitioner.

5. We are, thus, of the considered opinion that no effort was made as such to get the bail cancelled and since 05.05.2025, there

was no criminal activity as such and the detention order thereafter passed would be of no purpose and the issue of live link was shattered.

6. Reference can be made to the judgment in ***Sama Aruna vs. State of Telangana, (2018) 12 SCC 150***, wherein it has been held that a preventive detention order passed was without examining the existence of a live and proximate link between the alleged events and the order of detention would amount to punishment without trial, and that the exceptional powers of preventive detention cannot be permitted to devolve into a draconian and arbitrary exercise of State authority. It has also been held that the FIRs registered against the detenue were capable of being dealt with in the ordinary course of criminal law. Therelevant portion reads as under:

*“17. We are, therefore, satisfied that the aforesaid detention order was passed on grounds which are stale and which could not have been considered as relevant for arriving at the subjective satisfaction that the detenu must be detained. The detention order must be based on a reasonable prognosis of the future behavior 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. See G. Reddeiah v. Government of Andhra Pradesh and Anr.2 , and P.U. Iqbal v. Union of India.*

18 to 21 x-----x-----x-----x-----x

22. We are of the view, that the detention order in this case is vitiated by taking into account incidents so far back in the past as would have no bearing on the immediate need to detain him without a trial. The satisfaction of the authority is not in respect of the thing in regard to which it is required to be satisfied. Incidents which are stale, cease to have relevance to the subject matter of the enquiry and must be treated as extraneous to the scope and purpose of the statute.

23. In this case, we find the authority has come to a conclusion so unreasonable that no reasonable authority could ever reach. A detaining authority must be taken to know both, the purpose and the procedure of law. It is no answer to say that the authority was satisfied. In *T.A. Abdul Rahman v. State of Kerala and Ors.*, this Court observed, where the authority takes into account stale incidents which have gone by to seed it would be safe to infer that the satisfaction of the authority is not a genuine one.  
24 & 25 x-----x-----x-----x-----x

26. The influence of the stale incidents in the detention order is too pernicious to be ignored, and the order must therefore go; both on account of being vitiated due to malice in law and for taking into account matters which ought not to have been taken into account.”

7. The said view has been followed in the judgment passed by the Apex Court in ***Ameena Begum Vs. The State of Telangana (2023) 9 SCC 587***, wherein also while relying upon the judgment in ***Rekha Vs. State of Tamil Nadu (2011) 5 SCC 244***, it has been held that to unchain the shackles of preventive detention, it is important that the safeguards enshrine in our Constitution, particularly under the “golden triangle” formed by Articles 14,19 & 21, are delinquently enforced.

*“65. Interference by this Court with orders of detention, routinely issued under the Act, seems to continue unabated. Even after Mallada K Sri Ram (supra), in another decision of fairly recent origin in the case of Shaik Nazneen vs. The State of Telangana, this Court set aside the impugned order of detention dated 28th October, 2021 holding that seeking shelter under preventive detention law was not the proper remedy.*

*66. 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 2022 SCC OnLine SC 424 Crl. Appeal No.908 of 2022, dated 22nd June 2023 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.”*

8. Considering the above and the fact that the representation filed by the petitioner has not been dealt with in proper manner and he had also been acquitted in one of the cases, which was a primary ground as such for detention, we are of the considered opinion that the continuation as such of the petitioner's detention would not serve required purpose as it suffers from various infirmities. Thus, the petitioner is entitled for his freedom as such keeping in view the provisions of Article 21 of the Constitution of India.

9. Resultantly, the present petition is allowed and the extension order dated 23.04.2026 (Annexure P-3) is quashed and the petitioner be set free forthwith, if not required in any other case.

Pending applications, if any, also stand disposed of.

**(G. S. Sandhawalia)**  
**Chief Justice**

**(Bipin C. Negi)**  
**Judge**

**8<sup>th</sup> July, 2026**  
(sanjeev)