

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.WP No.36 of 2026

Date of Decision : 22.07.2026

Rajat Dhiman

..... Petitioner

Versus

State of Himachal Pradesh and Others

..... Respondents

Coram:

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?¹

For the Petitioner : Mr. Sanjeev Kumar Suri, Advocate.

For the Respondents : Ms. Priyanka Chauhan, Deputy Advocate General.

G.S. Sandhawalia, Chief Justice (Oral)

By way of present criminal writ petition, the petitioner has challenged the detention order dated 02.05.2026, passed by the Additional Chief Secretary (Home) to the Government of Himachal Pradesh, under the provisions of Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (for short 'the PIT NDPS Act'), whereby the petitioner had been detained for a period of three months on account of his involvement in three FIRs, which are as under:-

“(i). In FIR No. 158/2021 dated 10.09.2021 registered at Police Station Amb, District Una, Himachal Pradesh, under Sections 21 and 29 of the Narcotic Drugs and

- Psychotropic Substances Act, 1985, approximately 1.85 grams of heroin/chitta was recovered from him;*
- (ii). *In FIR No. 104/2023 dated 07.12.2023 registered at Police Station Rakkar, District Kangra, Himachal Pradesh, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, approximately 2.42 grams of heroin/chitta was recovered from him;*
- (iii). *In FIR No. 31/2025 dated 20.04.2025 registered at Police Station Rakkar, Police District Dehra, Himachal Pradesh, under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, approximately 7 grams of heroin/chitta was recovered from him."*

2. Counsel for the petitioner has submitted that the last FIR was registered on 20.04.2025 and there is a period of almost 11 months, and he had been bailed out on 05.09.2025 in the said FIR and thereafter he has not been involved in any other case pertaining to the NDPS Act. It has been submitted that the recovery, as such, was of minimum quantities. The cases are going on and therefore, the reasoning which have been given in the detention order to justify the recommendation for detention by the Director General of Police vide letter dated 18.04.2026, are without basis to hold that he was involved in drug trafficking.

3. It is thus submitted that even a perusal of the FIRs in question, as such, would go on to show that the petitioner was arrested at the spot in various three different places in connection with the cases under NDPS Act and the chances of him being a consumer are more likely than being a drug peddler.

4. It is further submitted that once the live link is missing and there is a substantial delay, the benefit as such has to be given to the petitioner, keeping in view the fact that the detention order curtails the liberty of a person and cannot be resorted to for the purpose of keeping the person in custody after he has been bailed out and in the absence of any involvement in the intervening period from 05.09.2025, till when the detention order was passed, i.e. 02.05.2026 and the same is liable to be quashed.

5. Learned counsel for the petitioner has placed reliance upon the judgment passed by us in ***Cr.WP No.31 of 2025***, titled ***Ankush Thakur vs. State of Himachal Pradesh and others***, dated 26.02.2026, wherein also, on account of the fact that during the intervening period of eight months, there was no involvement in such activities under the NDPS Act and there was absence of live link and the detention order had been quashed.

6. The State Counsel, on the other hand, justified the detention order on the ground of the frequency of the FIRs pertaining to the years 2021, 2023, and 2025 and argued that the Court should not strike down the detention order, once the detaining authority is satisfied with the available material and the delay as such would not invalidate the action. It has also been prayed by the State that the order has been validated by the opinion of the Advisory Board on 18.07.2026, as such, but we do not

entertain the argument as apparently the said issue could not be raised by the petitioner before the said Board while appearing through the video conferencing.

7. The law has already been settled down by the Apex Court in ***Rekha vs. State of Tamil Nadu TR Sec. to Govt. & Another, 2011 (4) SCR 740.***

8. Reliance can be placed upon the decision of the Apex Court in ***Sushanta Kumar Banik vs. State of Tripura and Others (2022) SCC online SC 1333***, where there was a delay of five months in passing the order of detention on the part of the detaining authority or executing authority and it was accordingly held that it would defeat the very purpose of the preventive action and turn the detention order as a dead letter and frustrate the entire proceedings and there should be a “live and proximate link” between the grounds of detention and the purpose of detention and the State had no reason to explain the delay and the detention order was accordingly quashed.

9. In this context, reference can also be placed upon the decision of the Apex Court in ***Sama Aruna vs. State of Telangana and another (2018) 12 SCC 150.*** The relevant extract reads as follows:-

“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. State of Andhra Pradesh and Anr. \(2012\) 2 SCC 389](#) , and [P.U. Iqbal v. Union of India and Ors. \(1992\) 1 SCC 434](#).

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 Kerela 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.

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.”

10. Keeping in view the above, we allow the petition and quash the detention order dated 02.05.2026, passed by the Additional Chief Secretary (Home) to the Government of Himachal Pradesh and all consequential orders passed thereafter. The petitioner be set free, if not required in any other case.

11. Accordingly, the petition stands disposed of, so also, the pending miscellaneous application(s), if any.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

July 22, 2026 (KS)