



CWP-29155-2025

-1-

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

(213)

CWP-29155-2025

Reserved on:- 31.10.2025

Pronounced on:- 03.11.2025

Raju

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Nagar Singh, Advocate for the petitioner.

Ms. Svaneel Jaswal, Additional Advocate General, Haryana

SUVIR SEHGAL, J.

1. This petition has been filed *inter-alia* for issuance of a writ in the nature of certiorari for quashing impugned orders dated 05.05.2025 and 29.07.2025, Annexures P-3 and P-7, respectively, passed by the Home Department, Haryana by which petitioner has been detained under the provisions of Prevention of Illicit Traffic in Narcotics Drugs and Psychotropic Substance Act, 1988 (hereinafter referred to as "PITNDPS Act") for a period of six months. Another prayer has been made for grant of compensation to the petitioner to the tune of Rs.1,00,000/- per month during the period he remained illegally detained.

2. Mr. Nagar Singh, Advocate, counsel for the petitioner submits that petitioner is running a grocery store and has been falsely implicated in six criminal cases on the allegation that non-commercial quantity, *ganja*, was recovered from his possession. He urges that the petitioner has been granted

**CWP-29155-2025****-2-**

bail in all the cases and he is adhering to the conditions imposed upon him by the Court while granting bail. Counsel points out that the prosecution had filed an application for cancellation of bail in one of the cases, which has been dismissed vide order dated 02.05.2025, Annexure P-2. Counsel asserts that instead of assailing the aforesaid order, respondent-authorities passed impugned order, Annexure P-3, detaining the petitioner, which has been confirmed vide impugned order, Annexure P-7. Counsel has argued that the orders have been passed by the respondent-authorities without any application of mind as there is no allegation of alleged recovery of heroin from petitioner in any FIR. He has placed reliance upon **Jahanara Bibi @ Jahanara Begam @ Jahanara Mondal @ Janu Versus Union of India and others, Law Finder ID # 2768448.**

3. Writ petition has been contested by the respondents by filing separate replies on behalf of respondents No.1 to 4 as well as respondent No.5. State counsel has argued that petitioner is a habitual drug trafficker and is involved in six criminal cases as he was found to be in illegal possession of narcotic substance. While referring to the details of the cases registered against the petitioner, she asserts that recovery of ganja has been effected from the person of the petitioner and even his brother has been named as an accused in an FIR registered for offence under the NDPS Act. State counsel points out that after being released on bail, petitioner has gone back to the notorious trade and the impugned orders have been passed in order to prevent him from indulging in the trade of narcotics. She has stated that petitioner has been wrongly described to be involved in the trade of heroin and there is a clerical



CWP-29155-2025

-3-

error in the detention order.

4. Having heard counsel for the parties and considering their submissions, this Court is of the view that the petition deserves to be accepted. Petitioner is named as an accused in different cases lodged against him for offences under the NDPS Act as recovery of ganja was effected from him in all the six cases. Petitioner has been released on bail and the cases are under trial. The details of the cases show that they have been registered against the petitioner over the last four years. While passing the detention order, Annexure P-3, Secretary to the Government of Haryana, Home Department has considered the report of the Screening Committee as well as dossier, including copies of letters received from the Superintendent of Police, Karnal, FIRs, seizure memos, disclosure statements, FSL reports, statements of witnesses, bail orders etc. Grounds of detention have been given in Annexure A-1, which forms a part of the detention order. After noticing all the six criminal cases registered against the petitioner as well as the case history, detaining authority has mentioned as under:-

“5. That he i.e Sh. Raju has been continuously engaging in the illegal procurement of selling of heroin. From the perusal of the cases registered against him, there is clear indication that he is not deterred from indulging in the illicit trafficking of drug. He takes advantage of bail granted to him every time and again gets involved in another series of crime.

xxxxxx

xxxxxx

xxxxxx

12. An application for cancellation of bail has been filed in FIR No. 457/2024, which is pending.”

5. During the course of arguments, it could not be disputed by the State counsel that psychotropic drug, heroin, has been inadvertently mentioned and it was a typographical error. She could not point out any material to show that



CWP-29155-2025

-4-

the petitioner is accused of possessing heroin. Reference also deserves to be made to the response filed by respondents No.1 to 4, relevant extract of which is reproduced hereunder:-

“11. That the contents of para-No. 11 of the petition are wrong and hence denied. As per the Para No. 5 of the Annexure-A, accused/petitioner Raju has been mentioned continuously engaged in the illegal procurement of selling heroin, which is actually ganja, not heroin. This was mistakenly written as heroin due to clerical error. The accused is continuously involved in selling ganja. Further, detailed reply in this regard have already been made in the preliminary submissions, which may be read as part and parcel of this reply.”

6. Furthermore, it may be noticed that detention order mentions that application for cancellation of bail is pending, which is incorrect. This application was dismissed by the Trial Court vide order dated 02.05.2025, Annexure P-2, which has not been brought to the notice of detaining authority. It seems that all the relevant facts were not placed before the detaining authority.

7. In **Ameena Begum Versus State of Telangana and other, (2023) 9 SCC 587**, Hon'ble Supreme Court has laid down parameters on which the orders of preventive detention are to be tested. It has been observed therein that subjective satisfaction of the detaining authority is sine qua non for the exercise of the power vested under the detention laws. In reaching at requisite satisfaction, detaining authority has to apply its mind to all the relevant circumstances and material facts, which are of rational probative value. The detaining authority has to give regard to matters as per the statutory mandate. Supreme Court has made it clear that the satisfaction has to be arrived at bearing in mind the existence of a live and proximate link between the past



CWP-29155-2025

-5-

conduct of a person and imperative need to detain him and detention should not be based on material, which is stale. It is evident from the material that the Court has proceeded on the assumption that recovery effected from the petitioner is heroin, whereas there is no case registered against the petitioner on any such allegation. Further, application for cancellation of bail filed by the prosecution has also been dismissed, which was not in the knowledge of the detaining authority. The material on the record is not germane to the past conduct of the petitioner and cannot form the foundation of subjective satisfaction of the detaining authority. Detaining authority has mechanically adopted the recommendation given by police authority and as held in Jahanara Bibi's case (supra), Court cannot turn a blind eye to it. In the opinion of this Court, parameters laid down by the Supreme Court in Ameena Begum's case (supra) are not fulfilled and impugned orders cannot be sustained.

8. For the afore-going reasons, impugned orders dated 05.05.2025 and 29.07.2025, Annexures P-3 and P-7, respectively, passed by respondent-authorities are set aside. Petitioner is directed to be released from detention forthwith, unless his custody is required in any criminal case.

9. In so far as prayer for compensation is concerned, liberty is granted to petitioner to file a suit for damages, if so advised, in accordance with law.

10. Writ petition is disposed of.

03.11.2025

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No