

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 4327 of 2026

Ashima Mukherjee Mondal

Vs.

The Union of India & Ors.

Mr. Souvik Mitter

Mr. Avik Ghatak

Mr. Saibal Das Gupta

Mr. Dibyo Mukherjee

....For the petitioner.

Mr. Rajdeep Majumdar, Ld. A.A.G.

Ms. Arushi Rathore

....For the U.O.I.

Mr. Krishnendu Bhattacharya

Mr. Priyankar Ganguly

....For the N.C.B.

Hearing Concluded On : 22.06.2026

Judgment Delivered On : 24.06.2026

Judgment Uploaded On : 24.06.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition challenging the order of detention dated 20th March, 2025, passed by the Joint Secretary (PITNDPS UNIT), Ministry of Finance, Department of Revenue, New Delhi. The petitioner is the wife of the detainee, Goutam Mondal. The detainee was initially arrested on 13th November, 2024 by the Narcotics Control Bureau in connection with Crime No. 15/ NCB/ KOL/ 24, corresponding to NDPS Case No. N 77 of 2024. The Special Task Force shown the arrested detainee and took him in custody in connection with Gaighata Police Station Case No. 164 of 2024 under Sections 21(c)/25/28/29 of the NDPS Act and also in connection with Bhadreswar Police Station Case No. 426 of 2024 under Sections 21(c)/25/28/29 of the NDPS Act.
2. Mr. Souvik Mitter, Learned Advocate representing the petitioner submits that in the aforesaid cases, there is nothing against the detainee apart from some statements of the co-accused persons and there is no investigation *per se* in respect of the detainee, as within 2 days from the date of arrest of the detainee, the agency had submitted charge sheet. He submits that during the custody of the detainee in connection with the above cases, the authorities of the Correctional Home informed to the

petitioner that the detainee has been transferred to the Central Jail, Jaipur, Rajasthan, on 25th June, 2025. He submits that the petitioner also received a communication dated 22nd July, 2025, from the respondent no.5 from which the petitioner came to know that the detainee had been detained under the provisions of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (hereinafter referred to as "PITNDPS Act"). From the said communication, the petitioner has also received an order of detention dated 20th March, 2025, grounds on which such detention order is issued against the detainee and the reference letter dated 14th July, 2025.

- 3.** Mr. Mitter submits that in the prosecution complaint dated 3rd March, 2024, it is stated that the detention order under PITNDPS Act has also been approved by the screening committee decision dated 6th February, 2025, against him due to his criminal involvement in multiple NDPS cases, but no such document/ approval of the screening committee was provided to the detainee.
- 4.** Mr. Mitter submits that the impugned detention order and the detention grounds are dated 20th March, 2025 but they were kept undisclosed to the detainee or to the petitioner for over three months as the order was not executed till 25th June, 2025. He submits that the detention order was executed three months later.

5. Mr. Mitter submits that as on 20th March, 2025 and until 25th June, 2025, the detenue was continuously in judicial custody at the Dum Dum Correctional Home at Kolkata in connection with the cases being investigation carried out by the respondent no.6 and the other investigating authorities. He submits that it is not the case that the detenue was untraceable or absconding for which delay was caused for execution of the impugned detention order. He submits that the respondents have not explained for the execution of delay in execution of detention order dated 20th March, 2025.
6. Mr. Mitter submits that the respondent no. 2 forwarded a reference on 14th July, 2025 i.e. after the period of 20 days of the detention to the State Advisory Board, Rajasthan, comprising of the Hon'ble three Judges of the Rajasthan High Court, Jaipur Bench for its report and opinion. He submits that the detention reference was provided to the detenue only in English language but the detenue is conversant with only Bengali language.
7. Mr. Mitter submits that the grounds of detention refers to six notices/ proceedings under the Customs Act but the detention order is passed under the PITNDPS Act, thus the authorities have given an extraneous consideration of the alleged proceeding of the Customs Act which is not applicable while passing an order of detention under the PITNDPS Act.

8. Mr. Mitter submits that no opportunity of hearing was given to the detenue, no opinion or report in terms of Section 9(c) of the PITNDPS Act, has been served to the petitioner by the State Advisory Board and no notification has been issued by the appropriate government confirming the period of detention that the detenue will have to undergo.
9. Mr. Mitter has relied upon the judgment in the case of ***Sushanta Kumar Banik Vs. State of Tripura and Others*** reported in ***2022 SCC OnLine SC 1333*** and submits that the underlying principle is that if there is unreasonable delay between the date of the order of detention and actual arrest of the detenue 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 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 detenue.
10. Mr. Mitter has relied upon the judgment in the case of ***Sanjay Kanubhai Tanti Vs. Superintendent and Others*** reported in ***(2021) 5 SCC 486*** and submits that without any sufficient prior intimation to the detenue for preparation or arrangement for such hearing, without permitting any time to seek assistance by any friend or advocate, that to when the detenue has

no documents/ materials/ judgments in his hand, cannot be justified for preventive detention.

11. Mr. Mitter has further relied upon the judgment in the case of ***Binod Singh Vs. District Magistrate, Dhanbad Bihar and Others*** reported in ***(1986) 4 SCC 416*** and submits that 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.
12. Learned Counsel appearing for the NCB submits that the detainee was involved in three narcotic cases and accordingly, the sponsoring authority i.e. Additional Director, Narcotics Control Bureau, Kolkata, submitted a proposal requesting for preventive detention of detainee under the PITNDPS Act, 1988. Considering the materials, the proposal was referred to the Screening Committee, and an Administrative body was constituted to assist an advice the detaining authority for examination of the proposal received from the sponsoring authority.
13. The Screening Committee conveyed its meeting on 6th February, 2025 and after considering the materials available on record, it was opined that the case was fit for preventive detention.
14. Mr. Rajdeep Majumdar, Learned AAG submits that the Committee was of the view that in order to effectively disrupt the supply chain and communication network of the detainee and his associates engaged in the

illicit trafficking of narcotic drugs, it would be appropriate to lodge the detainee in a State geographically distant from his area of operation.

- 15.** Mr. Majumdar submits that the sponsoring authority has proposed for detaining of the detainee at Jaipur Central Jail, Rajasthan with the reason that the detainee should remain outside the Eastern Region (ER), where his entire drug network is operational.
- 16.** Mr. Majumdar submits that as no Advisory Board under the PITNDPS Act, 1988, was constituted in the State of West Bengal, the competent authority considered that the detainee is to be detained in Jaipur Central Jail, Rajasthan and thus the Advisory Board of Rajasthan, to be an appropriate Board for making reference under Section 9(b) of the PITNDPS Act for conducting hearing.
- 17.** Mr. Majumdar submits that immediately the order of detention dated 20th March, 2025, was communicated to the concern authorities for its implementation. Since the detainee was lodged in Dum Dum Correctional Home, West Bengal, though the order of the preventive detention was Jaipur Jail, Rajasthan and as such several communications were exchanged between the several departments including the Home Department, Government of Rajasthan and the Superintendent, Jaipur Jail as well as No Objection Certificate from various Courts before which cases were pending against the detainee. He submits that No Objection

Certificate from the Home Department, Rajasthan was received on 17th April, 2025 and No Objection Certificates from other concerned Courts were finally received on 21st May, 2025 and only after completion of the mandatory procedural requirement, the detainee was transferred from Dum Dum Correctional Home, West Bengal to Jaipur Jail, Rajasthan on 25th June, 2025.

- 18.** Mr. Majumdar submits that the detention order was passed by the Central Government and the detainee was confined in Dum Dum Correctional Home, West Bengal and the competent authorities made arrangements for shifting the detainee to Jaipur Jail, Rajasthan and thus the matter was referred to the Advisory Board's jurisdiction at Rajasthan.
- 19.** Mr. Majumdar submits that the authorities have considered the allegation against the detainee and found that the detainee indulged in organizing illicit trafficking of narcotic drugs and psychotropic substances as well as have a high propensity to engage in illicit activity and accordingly passed the order for detention of the detainee.
- 20.** Mr. Majumdar submits that the matter was referred to the Advisory Board consisting of three Judges of the Rajasthan High Court, Jaipur Bench as the Advisory Board has fixed the matter for hearing on 12th August, 2025 wherein the detainee was also produced but on the said date, the hearing was adjourned and on 20th August, 2025, the Advisory Board has taken

up the matter for hearing, and after hearing the detenue-in-person, confirmed the order of detention dated 20th March, 2025.

- 21.** Mr. Majumdar submits that there is no illegality in the order of detention and as such the writ petition is liable to be dismissed.
- 22.** Heard the Learned Counsel for the respective parties, perused the materials on record and the judgments relied by the petitioner.
- 23.** The first ground taken by the petitioner that the detention order was passed on 20th March, 2025 but the petitioner was remain in judicial custody at Dum Dum Correctional Home, Kolkata till 25th June, 2025, thus the respondents have taken about three months' time for shifting the petitioner from Dum Dum Correctional Home, Kolkata to Jaipur Central Jail, Rajasthan. The respondents have explained the delay for transferring the detenue from Dum Dum Correctional Home, Kolkata to Jaipur Central Jail, Rajasthan on the ground of the administrative reason for obtaining No Objection Certificate from the Home Department, Government of Rajasthan and the Superintendent, Jaipur Jail. The detenue was also having several cases, in several Courts in West Bengal, wherein there is a direction for appearance/ production of the detenue before the said Courts and subsequently the authorities have obtained NOCs from all Courts only on 21st May, 2025 and only after completion of the mandatory procedure,

the detenue was shifted to Jaipur Central Jail, Rajasthan, on 25th June, 2025.

24. The judgment relied by the petitioner in the case of ***Sushanta Kumar Banik (supra)***, the Hon'ble Supreme Court has held that if there is unreasonable delay between the date of order of detention and actual arrest of detenue and the 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 passing the detention order. In the present case, this Court finds that the respondents have sufficiently explained as to why there is delay for transferring of the detenue from Dum Dum Correctional Home, West Bengal to Jaipur Central Jail, Rajasthan, thus facts of the case referred by the petitioner is distinguishable from the facts of the present case.
25. The petitioner has raised the issue that in two cases, there is no seizure made from the detenue and the third case was initiated on 21st February, 2024 and the detenue was arrested on 13th November, 2024 and the alleged seizure was made on 5th December, 2024 i.e. after the period of 8 months. He submits that in all the cases, the detenue was implicated only on the basis of the statements of the co-accused and thus it cannot be said that the detenue was involved in the illicit trafficking of narcotic drugs and psychotropic substances.

- 26.** In the NCB Kolkata Crime No. 15 of 2024 dated 5th September, 2024, it is the specific allegation against the detainee that his role in the illicit smuggling and distribution of Phensedyl, Charas and Gold to Bangladesh. He also confirmed that he financed and coordinated illegal operations with his associate, who managed the logistics and guided the trucks carrying Phensedyl from Uttar Pradesh to Bongaon with the other persons and also involved in the supply chain.
- 27.** In the case of Gaighata P.S. Case No. 164 of 2024 dated 21st February, 2024, during the investigation and after his arrest, the police have seized thousand bottles of Codeine based cough syrup Phensedyl (each bottle contains 100 ml quantity) from the detainee on 5th December, 2024.
- 28.** As regard to the Bhadreswar P.S. Case No. 426 of 2024 dated 23rd October, 2024, it is the allegation that on interrogation of the accused Shiva Mishra, he has stated that he had carried Phensedyl syrup as per the direction of his father and was planned to deliver the consignment to the detainee.
- 29.** In the detention order, it was also recorded that after the arrest of the detainee, a financial investigation was initiated and found that the detainee owns several firms registered in the name of his wife and his minor daughters, which appears to be shell companies used to legitimize proceeds from the illicit trafficking of Phensedyl. The detainee has also

grabbed the properties of Rs. 5.05 crores and accordingly, freezing of the said properties issued on 28th January, 2025 and the freezing order confirmed by the competent authority on 26th February, 2025.

- 30.** Considering the above, this Court finds that the authority has considered all the materials placed before him and accordingly passed the detention order dated 20th March, 2025, which was duly confirmed by the Advisory Board, thus this Court did not find any illegality in the said order.
- 31.** It is the further case of the petitioner that the detainee only knows Bengali language and as such he could not get an opportunity of hearing to explain his grievances before the Advisory Board. Mr. Majumdar has produced the original order of confirmation passed by the Advisory Board dated 12th August, 2025 and 20th August, 2025 wherein it reveals that the detainee was produced before the Advisory Board on both the days, and the Advisory Board has examined the detainee. Mr. Majumdar has also produced a letter written by the detainee in Hindi language. This Court has perused the said documents and finds that the detainee has written the letter in Hindi language and as such it cannot be said that the detainee does not know any language other than the Bengali language.
- 32.** Considering the above, this Court did not find any illegality in the impugned order of detention dated 20th March, 2025, thus the writ petition being **WPA No. 4327 of 2026** is **dismissed**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)