

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CWP-3037-2026 (O&M)  
Reserved on: 12.03.2026  
Pronounced on: 24.03.2026

Sanesh Alias Sanera Alias Shailash

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kawalpreet Singh Virk, Advocate and  
Ms. Payal Sharma, Advocate  
for the petitioner.

Mr. Deepak Vashisht, DAG, Haryana.

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JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 04.11.2025 whereby she was detained under Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for short ‘1988 Act’) and order dated 20.01.2026 whereby her detention was confirmed by Additional Chief Secretary to Government of Haryana.
2. The petitioner is a resident of District Faridabad. She was arrested in ten FIRs registered under Narcotic Drugs and Psychotropic Substances, Act, 1985 (for short ‘NDPS Act’). Detail of FIRs is as below:

| Sr. No. | FIR Details                 | Date of Arrest | Quantity of Total Seizure | Date of Bail Granted   | Date of Next FIR/Crime Committed |
|---------|-----------------------------|----------------|---------------------------|------------------------|----------------------------------|
| 1.      | FIR No.375 dated 23.05.2022 | 23.05.2022     | 770 Grams                 | Police Bail 23.05.2022 | FIR No.704 dated                 |

|    |                                                                                                                 |            |                 |                                                             |                                                                                                                 |
|----|-----------------------------------------------------------------------------------------------------------------|------------|-----------------|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
|    | under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana                             |            | Ganja           | Regular bail<br>07.07.2022                                  | 15.09.2022<br>under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana               |
| 2. | FIR No.704 dated 15.09.2022 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana | 15.09.2022 | 127 Grams Ganja | Police Bail<br>15.09.2022<br><br>Regular bail<br>13.01.2023 | FIR No.785 dated 17.10.2022 under section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana |
| 3. | FIR No.785 dated 17.10.2022 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana | 17.10.2022 | 520 Grams Ganja | Police Bail<br>17.10.2022<br><br>Regular bail<br>31.01.2023 | FIR No.925 dated 20.12.2022 under section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana |
| 4. | FIR No.925 dated 20.12.2022 under section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana | 20.12.2022 | 660 Grams Ganja | Regular bail<br>21.12.2022                                  | FIR No.264 dated 26.03.2023 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana |
| 5. | FIR No.264 dated 26.03.2023 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana | 26.03.2023 | 780 Grams Ganja | Police Bail<br>26.03.2023<br><br>Regular bail<br>08.06.2023 | FIR No.757 dated 08.09.2023 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana |

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|-----|-----------------------------------------------------------------------------------------------------------------|------------|-----------------|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
|     |                                                                                                                 |            |                 |                                                       |                                                                                                                 |
| 6.  | FIR No.757 dated 08.09.2023 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana | 08.09.2023 | 485 Grams Ganja | Police Bail 08.09.2023<br><br>Regular bail 28.11.2023 | FIR No.157 dated 28.02.2024 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana |
| 7.  | FIR No.157 dated 28.02.2024 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana | 28.02.2024 | 350 grams Ganja | Police Bail 28.02.2024<br><br>Regular bail 14.06.2024 | FIR No.972 dated 30.12.2024 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana |
| 8.  | FIR No.972 dated 30.12.2024 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana | 30.12.2024 | 560 grams Ganja | Police bail 30.12.2024<br><br>Regular bail 10.03.2025 | FIR No.160 dated 06.04.2025 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana |
| 9.  | FIR No.160 dated 06.04.2025 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana | 06.04.2025 | 766 grams Ganja | Police bail 06.04.2025<br><br>Regular bail 28.07.2025 | FIR No.185 dated 16.04.2025 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana |
| 10. | FIR No.185 dated 16.04.2025 under Section 20 of NDPS Act, Police Station                                        | 16.04.2025 | 418 grams Ganja | Police bail 16.04.2025<br><br>Regular bail 10.06.2025 | The accused us on regular bail since 10.06.2025                                                                 |

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|--|-------------------------------------------------|--|--|--|--|
|  | Sector 58,<br>District<br>Faridabad,<br>Haryana |  |  |  |  |
|--|-------------------------------------------------|--|--|--|--|

3. The Deputy Commissioner of Police on 16.08.2025 proposed detention of petitioner under 1988 Act. The proposal was approved on 04.11.2025. The petitioner was detained on 07.11.2025 and is in custody since then. During the pendency of instant petition, matter was referred to Advisory Board comprising three members. The Advisory Board vide its report dated 19.12.2025 confirmed her detention. The Board formed an opinion that sufficient cause is made out for preventive detention of Sanesh alias Sanera alias Shailesh. On the basis of report of Board, State Government has passed order dated 20.01.2026 whereby petitioner has been ordered to be detained for six months from the date of her detention.

4. Learned counsel representing the petitioner submits that petitioner does not understand English, however, was supplied copy of detention order in English. The detention order was further supplied after more than two weeks from the date of detention. She was released on bail on 10.06.2025 and proposal for detention was forwarded on 16.08.2025. Order of detention was finally passed on 04.11.2025. Order of preventive detention is passed to snap live link and in the case of petitioner there was no live link still detention order was passed. The respondent did not point out propensity of petitioner’s involvement in illegal activities. In the absence of live link, the impugned order is bad in the eye of law. This Court in ‘*Hari Om Versus State of Haryana and Others*’, *Law Finder Doc Id#2573761* has held that detention after three months from the date of proposal is bad in the eye of law.

5. *Per contra*, learned State counsel submits that petitioner is a habitual offender. She was found involved in ten NDPS cases. Ten FIRs were registered against her within three years. She repeated offence after release on bail. As soon as she was released on bail, she repeated the offence. In such circumstances, Authorities found it appropriate to detain her under 1988 Act. The petitioner was released on bail on 10.06.2025 and proposal for her detention was forwarded on 16.08.2025. The proposing authority was jurisdictional DCP. Matter was put up before Director General of Police (**DGP**) who considered the record and forwarded the matter to Home Department. The order was finally passed by Home Department. In this process, a period of two and a half months was consumed. There was no delay on the part of respondent. The petitioner is a habitual offender and is repeatedly engaging herself in activities prohibited by NDPS Act. The Authorities under compelled circumstances, ordered to detain her. The Board has considered complete material on record and thereafter approved her detention.

6. Heard the arguments and perused the record.

7. It is undisputed fact that preventive detention is a draconian step. It should be initiated in exceptional and compelled circumstances. Matter should not only be examined in the light of statutory provisions but also Article 21 and 22 of the Constitution of India. Preventive detention has remained subject matter of judicial discussion and pronouncement since independence.

8. A five-judge bench of Hon'ble Supreme Court in ***Haradhan Saha vs. State of West Bengal & Ors, (1975) 3 SCC 198***, has held that preventive detention has nothing to do with the commission of an offence

by the detenu or any prosecution against her. The preventive detention can be ordered before or during the prosecution and even with or without prosecution of a criminal case against the detenu. It can be made in anticipation. Preventive detention can be ordered even after discharge or acquittal of an accused. Pendency of a criminal case is no bar to order preventive detention and Article 14 of the Constitution of India, in such cases, takes a back seat because preventive detention and prosecution are not synonymous. The purposes are different. The authorities are different. The nature of proceedings is different. In a prosecution an accused is sought to be punished for a past act. In preventive detention, the past act is merely the material for inference about the future course of probable conduct on the part of the detenu. The Court has further laid down principles which need to be noticed while adjudicating validity of order of preventive detention. The Court has held:

*“First, merely because a detenu is liable to be tried in a criminal court for the commission of a criminal offence or to be proceeded against for preventing him from committing offences dealt with in Chapter VIII of the Code of Criminal Procedure would not by itself debar the Government from taking action for his detention under the Act. Second, the fact that the Police arrests a person and later on enlarges him on bail and initiates steps to prosecute him under the Code of Criminal Procedure and even lodges a first information report may be no bar against the District Magistrate issuing an order under the preventive detention. Third, where the concerned person is actually in jail custody at the time when an order of detention is passed against him and is not likely to be released for a fair length of time, it may be possible to contend that there could be no satisfaction on the part of the detaining authority as to the likelihood of such a*

*person indulging in activities which would jeopardise the security of the State or the public order. Fourth, the mere circumstance that a detention order is passed during the pendency of the prosecution will not violate the order. Fifth, the order of detention is a precautionary measure. It is based on a reasonable prognosis of the future behaviour of a person based on his past conduct in the light of the surrounding circumstances.”*

8.1 A division bench of Supreme Court in the case of ***Ameena Begum vs The State of Telangana & Ors, 2023(9) SCC 587*** laid down certain guiding principles to test the legality of preventive detention orders. Gainful reference is reproduced as below:

*“In the circumstances of a given case, a Constitutional Court when called upon to test the legality of orders of preventive detention would be entitled to examine whether*

- (i) the order is based on the requisite satisfaction, albeit subjective, of the detaining authority, for, the absence of such satisfaction as to the existence of a matter of fact or law, upon which validity of the exercise of the power is predicated, would be the sine qua non for the exercise of the power not being satisfied;*
- (ii) in reaching such requisite satisfaction, the detaining authority has applied its mind to all relevant circumstances and the same is not based on material extraneous to the scope and purpose of the statute;*
- (iii) power has been exercised for achieving the purpose for which it has been conferred, or exercised for an improper purpose, not authorised by the statute, and is therefore ultra vires;*
- (iv) the detaining authority has acted independently or under the dictation of another body;*
- (v) the detaining authority, by reason of self-created rules of policy or in any other manner not authorized by the governing statute, has disabled itself from applying its mind to the facts of each individual case;*

*(vi) the satisfaction of the detaining authority rests on materials which are of rationally probative value, and the detaining authority has given due regard to the matters as per the statutory mandate;*

*(vii) the satisfaction has been arrived at bearing in mind existence of a live and proximate link between the past conduct of a person and the imperative need to detain him or is based on material which is stale;*

*(viii) the ground(s) for reaching the requisite satisfaction is/are such which an individual, with some degree of rationality and prudence, would consider as connected with the fact and relevant to the subject-matter of the inquiry in respect whereof the satisfaction is to be reached;*

*(ix) the grounds on which the order of preventive detention rests are not vague but are precise, pertinent and relevant which, with sufficient clarity, inform the detenu the satisfaction for the detention, giving him the opportunity to make a suitable representation; and*

*(x) the timelines, as provided under the law, have been strictly adhered to.*

*Should the Court find the exercise of power to be bad and/or to be vitiated applying any of the tests noted above, rendering the detention order vulnerable, detention which undoubtedly visits the person detained with drastic consequences would call for being interdicted for righting the wrong.*

8.2 In ***Sushanta Kumar Banik vs State of Tripura & Ors, AIR 2022 SC 4715*** in addition to observing that there was no "live and proximate link" between the grounds of detention and detention order, another factor was also taken into consideration by the Hon'ble Apex Court that petitioner was on bail in all the cases and no challenge was



made by the State authorities to the said orders. Relevant para from this judgment is reproduced below:

*"23. A plain reading of the aforesaid provision would indicate that the accused arrested under the NDPS Act, 1985 can be ordered to be released on bail only if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. If the appellant herein was ordered to be released on bail despite the rigours of Section 37 of the NDPS Act, 1985, then the same is suggestive that the Court concerned might not have found any prima facie case against him. Had this fact been brought to the notice of the detaining authority, then it would have influenced the mind of the detaining authority one way or the other on the question whether or not to make an order of detention. The State never thought to even challenge the bail orders passed by the special court releasing the appellant on bail."*

9. In the case in hand, the proposing authority in its proposal has observed:

**“Status of accused -**

*Subsequent to the proposal, accused Sanesh alias Sanera alias Shailesh has not been involved in any other case. Presently the accused Sanesh alias Sanera alias Shailesh is on regular bail since 10.06.2025 in case FIR No. 185 Dated 16.04.2025 u/s 20-61-85 NDPS Act, PS Sector 58, Distt Faridabad Haryana.*

**Conclusion-**

*The accused Sanesh alias Sanera alias Shailesh wife of Sarupa resident of Street Number 04, Gurjar Chowk Wali Gali, Rajeev Colony, Police Station Sector 58, District Faridabad is a habitual illicit drug trafficker. She has been caught red-handed with narcotic drugs and psychotropic*

*substances multiple times. Previous arrests in NDPS cases so far have not deterred her from re-engaging in drug trade and she is continuously misusing the provision of bail to reinvigorate her drug trade. If not detained immediately, in all probability, she will again engage in smuggling and supplying of narcotic drugs and psychotropic substances in Faridabad.*

*Illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy and youth. In view of the above-mentioned facts, it is proposed that detention of Accused Sanesh alias Sanera alias Shailesh u/s 3(1) of the PIT NDPS Act 1988 may be considered so as to prevent her from indulging repeatedly in the illegal trafficking of narcotics drugs and psychotropic substances.”*

10. The proposing authority has recorded that accused is not involved in any case after release on bail. She during the course of hearing has undertaken that she may be detained, if in future is found involved in the cases relating to NDPS. She was detained on 07.11.2025 and as per detention order, her detention is for six months. She was found involved in possessing ‘ganja’ and not any synthetic drug. Live link was missing at the time of her detention and State never asked for cancellation of her arrest. She is a more than 60 years old lady who belongs to poor strata of the society and many family members are dependent upon her.

11. In the wake of above discussion and findings, this Court is of the considered opinion that impugned detention order deserves to be set aside and accordingly set aside. The petitioner is ordered to be set free

subject to furnishing personal bond of future good conduct.

12. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)  
JUDGE

24.03.2026  
*Prince Chawla*

|                           |        |
|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |

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