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

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Kewal Singh alias Kalli

....Petitioner

V/s

State of Haryana and others

....Respondents

Date of decision: 22.05.2026

Date of Uploading : 22.05.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Simran Atwal, Advocate with
Ms. Jasleen Kaur, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

Ms. Meghna Malik, Advocate for respondent No.3-UOI
(presence marked through video-conferencing).

SUMEET GOEL, J. (Oral)

1. The present criminal writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of Certiorari for quashing detention order dated 01.12.2025 passed by respondent No.2 under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (hereinafter referred to as the 'PIT NDPS Act') and consequential confirmation order dated 14.02.2026 whereby detention of the petitioner was confirmed for a period of six months from the date of detention i.e. 05.12.2025. Alternatively, the petitioner has also sought a writ in the nature of Mandamus directing the respondents to release him forthwith.

2. Shorn of non-essential details, the relevant factual matrix of the *lis* in hand is adumbrated, thus:



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(i) The petitioner is a resident of District Sirsa, Haryana. A proposal/dossier for preventive detention under the provisions of the PIT NDPS Act was forwarded by the Superintendent of Police, Dabwali to the competent authority alleging that the petitioner was involved in trafficking of narcotic substances and was involved in five FIRs registered under the NDPS Act. The said proposal was sent vide communication dated 09.10.2025. Thereafter, detention order dated 01.12.2025 came to be passed by respondent No.2 under Section 3(1) of the PIT NDPS Act directing preventive detention of the petitioner. Pursuant thereto, the petitioner was taken into custody on 05.12.2025 and lodged in District Jail, Sirsa.

(ii) The detention order primarily relies upon the following FIRs:

- (a) FIR No.115 dated 29.07.2020 registered at Police Station Odhan, Police District Dabwali under Sections 22-C, 61 and 85 of the NDPS Act involving alleged recovery of 180 tablets of Tramadol;
- (b) FIR No.53 dated 28.03.2024 registered at Police Station Odhan, Police District Dabwali under Sections 21-B, 61 and 85 of the NDPS Act involving alleged recovery of 10.50 grams of heroin;
- (c) FIR No.168 dated 09.09.2024 registered at Police Station Odhan, Police District Dabwali wherein the petitioner was nominated on disclosure statement of co-accused Jagdish from whom 6.65 grams heroin was allegedly recovered;
- (d) FIR No.18 dated 24.01.2025 registered at Police Station Odhan, Police District Dabwali wherein the petitioner was nominated on disclosure statement of co-accused Iqbal Singh from whom 9.80 grams heroin was allegedly recovered; and
- (e) FIR No.100 dated 05.05.2025 registered at Police Station Kalanwali, Police District Dabwali wherein the petitioner was nominated on disclosure statement of co-accused Gurjinder from whom 7.45 grams heroin was allegedly recovered.

(iii) It is pleaded that the petitioner had already been granted regular bail by competent Courts in all the aforesaid FIRs prior to issuance of the detention order. It is further the pleaded case of the petitioner that after grant of bail in the latest FIR dated 05.05.2025, no subsequent FIR or criminal



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(iv) The record further reflects that a representation dated 08.01.2026 was made by the wife of the petitioner seeking revocation of the detention order. Subsequently, vide order dated 14.02.2026, the detention was confirmed for a period of six months, which reads thus:

“Whereas, in exercise of the powers conferred vide section 3 (1) of the Prevention of Illicit Traffic of Narcotics Drugs and Psychotropic Substances Act, 1988 (for brevity the Act, 1988), the detaining authority vide order Endst. No. 05/112/2025-4HC dated 01.12.2025 issued. 03.12.2025 directed to detain of Sh. Kewal Singh alias Kalli S/o Kheta Singh R/o Village Ghukanwali, Police Station Odhan, Police District Dabwali, Haryana, with a view to prevent him from engaging in illicit traffic in narcotic drugs and psychotropic substance. In pursuance of the said detention order dated 01.12.2025 issued on 03.12.2025, Sh. Kewal Singh alias Kalli S/o Kheta Singh was detained on 05.12.2025 and he is currently detained in District Jail, Sirsa, Haryana.

And whereas, a reference under section 9 (b) of the Act, 1988 in respect of detention of Sh. Kewal Singh alias Kalli S/o Kheta Singh was made to the Advisory Board, Haryana duly constituted under section 9 (a) of Act, 1988 vide letter dated 22.12.2025. The Advisory Board, after providing an opportunity of hearing to the detainee Sh. Kewal Singh alias Kalli S/o Kheta Singh through video conference on 22.01.2026, submitted its report dated 27.01.2026, which was received vide letter dated 28.01.2026. The Advisory Board, in its report dated 27.01.2026 has concluded that sufficient cause is made out for the preventive detention of Sh. Kewal Singh alias Kalli S/o Kheta Singh.

An now, therefore, in exercise of the powers conferred by section 9(f) read with section 11 of the Act, 1988, the detention order of Sh. Kewal Singh alias kalli S/o Kheta Singh issued vide Endst. No.05/112/2025-4HC dated 03.12.2025 is hereby confirmed and it is furher directed that the period of detention of Sh. Kewal Singh alias Kalli S/o Kheta Singh R/o Village Ghukanwali, Police Station Odhan, Police District Dabwali, Haryana in pursuance of the aforesaid detention order shall be six month from the date of his detention i.e. 05.12.2025.

(Sudhir Rajpal, IAS)

Additional Chief Secretary to Government Haryana,

Home Department”



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3. Learned counsel for the petitioner has iterated that the impugned confirmatory order is against the basic tenets of law as the same does not reflect any independent application of mind at the end of the confirming authority. Learned counsel has further iterated that the *impugned confirmation order* has been passed solely on the basis of opinion of the Advisory Board and, therefore, clearly does not adhere to the distinction of the power of the State Government/appropriate Government and role of the Advisory board. It has been further contended that, even if, an opinion is received from the Advisory Board regarding satisfaction of continuing the detention order, even in such a situation, the confirmatory authority ought to have applied its own independent mind. Learned counsel has urged that this vital aspect of the matter is clearly lacking in the *impugned confirmation order*. On the strength of these submissions, learned counsel has prayed that the impugned order(s) be set-aside.

4. Referring to reply dated 03.05.2026 filed by way of affidavit of Yogesh Kataria, Deputy Superintendent of Police (City), Dabwali, District Sirsa, on behalf of respondent Nos.1, 2, 4 to 6, learned State counsel has opposed the petition in hand and has contended that the petitioner is a habitual offender as he involved in repeated offences under the NDPS Act and his activities were prejudicial to society at large. Learned State counsel has iterated that the competent authority(s), after considering the material placed before it, arrived at subjective satisfaction that preventive detention of the petitioner was necessary to prevent him from indulging in illicit trafficking of narcotic substances. It has been further contended that the impugned order(s) have been passed against the petitioner for up-keeping of



public order and law. Learned State counsel has emphasized that the entire procedural norms have been meticulously followed. Furthermore, the impugned orders are based on sound reasoning and after following the due process of law. According to learned State counsel, the petitioner has no valid reason or ground to challenge the impugned orders. Accordingly, the dismissal of the petition in hand is prayed for.

4.1. Learned counsel appearing for respondent No.3- UOI submits that the impugned orders have been passed by the concerned authority of State of Haryana and hence, no written reply/response is required/filed on behalf of respondent No.3-UOI.

5. I have heard learned counsel for the rival parties and have perused the record.

6. At this stage, it would be apposite to refer herein to a judgment passed by this Court titled as *Jasveer Singh @ Jasbir Singh @ Kala vs. State of Haryana and others* = 2026:PHHC:78845, relevant whereof reads thus:

“Prime Issue

5. *The prime issue that arises for consideration in the petition in hand is as to whether the impugned confirmation order is liable to be quashed.*

The seminal legal issue that arises for cogitation is as to whether the confirming authority, while passing a confirmation order in terms of Section 9(f) of PITNDPS Act, is under a statutory obligation to pass a reasoned order reflecting independent application of mind, not only regarding the substantive confirmation of the detainee’s detention but also with respect to the determination of the period of extension.

XXX	XXX	XXX	XXX
XXX	XXX	XXX	XXX

Analysis (re law)

8. *At first glance, the concept of preventive detention appears fundamentally antithetical within the four corners of constitutional democracy governed by the Rule of Law, whose preamble and fundamental ethos elevated personal liberty to a sacrosanct pinnacle. To incarcerate an individual ante delicto (i.e. before the commission of an offence) based on mere executive apprehension, rather than post delicto (i.e. after a punitive trial), sharply conflicts with the venerable maxim libertas omnibus rebus favorabilior est i.e. liberty is to be favoured above all things. Yet, Constitutional governance is not founded upon abstract idealism alone, but equally upon pragmatic realism and the imperative*



*necessity of preserving the larger societal order. It cannot afford to dwell in the realm of doctrinaire absolutism. It was in recognition of this delicate Constitutional equilibrium that the framers of the Constitution, despite their unmatched reverence for civil liberties, consciously retained provisions enabling preventive detention. The rationale underlying such retention was neither accidental nor ornamental; rather, it stemmed from the compelling necessity to equip the State with adequate Constitutional machinery to eliminate/curb forces whose activities, may imperil the sovereignty and integrity of the nation, disrupt public order, threaten national security, or endanger societal peace and welfare. In such circumstances, the law cannot afford to lock the stable after the horse has bolted. However, this inclusion was never an endorsement of executive tyranny, but rather a calculated concession to the age old adage *salus populi suprema lex esto* i.e. the welfare/safety of the people in common is the supreme law, thereby, acknowledging that the preservation of the State's sovereignty is the condition precedent to the enjoyment of any individual civil right.*

8.1. To forestall this extraordinary and inherently nocuous power from degenerating into an engine of autocratic oppression, the constitutional schema itself mandates certain irreducible safeguards, strictissimi juris observance whereof, is sine qua non for any lawful deprivation of liberty. These safeguards provided under Article 22 of the Constitution of India are not merely perfunctory formalities; rather, they constitute an indelible and substantive facet of the due process of law, the non-compliance whereof renders the underlying proceedings null and void and the resultant detention fundamentally illegal. In this sensitive intersection of State security/ national welfare and individual freedom, the law demands strictissimi juris, adherence with these procedural safeguards, for when the State operates out of the shadows of suspicion/ apprehension of future transgression(s) rather than the light of evidence, this procedural shield remains the detenu's sole refuge against executive overreach. A failure to scrupulously observe these Constitutional dictates does not merely constitute venial technical irregularity; it tantamount to a flagrant violation of Article 21, as the procedure established by law becomes a mere hollow shell if its foundational safeguards are bypassed or diluted. Consequently, any statute providing for preventive detention must, as a condition precedent to its validity, incorporate these minimum safeguards to ensure they are not subverted by administrative ipse dixit.

Amongst the constellation of safeguards, Article 22(4) serves as an institutional check, by necessitating the constitution of an independent Advisory Board to scrutinise any proposal for extending detention beyond the period of 3 months. The role of Advisory Board is not merely advisory in nature in colloquial sense, it functions as a quasi-judicial bulwark, a sieve through which the executive's subjective satisfaction must pass. This is further complemented by Article 22(5), which imposes an obligation to furnish the grounds of detention, as soon as may be and to afford the detenu the earliest opportunity of making a representation. This right to representation is not a hollow, formalistic ritual but a substantive entitlement that carries the implied requirement of expeditious consideration and disposal thereof by the State in a judicious manner, eschewing any mechanical or perfunctory approach, lest, it may constitute a fatal fracture in the procedure established by law, and renders the detention vulnerable for Article 21 scrutiny.

8.2. The architectural blueprint of these Constitutional safeguards finds statutory expression in Section 9 of the PITNDPS Act. Section 9(a) provides for the manner in which the Advisory Board is to be constituted and Section 9(b) further tightens the procedural noose by mandating that the Appropriate Government make a formal reference to the Advisory



Board within five weeks from detention, upon receipt whereof, the Advisory Board enters into a deliberative phase; transcending a mere review of the record to consider all relevant material and any such further information, as deemed necessary; judicially. This process culminates into a report under article 22(4)(a), wherein, for the detention to be continued and lawful, the Advisory Board must have arrived at a categorical finding as to whether there exists 'sufficient cause' for the continued incarceration of the individual.

8.3. *The finality and potency of the Advisory Board's determination find their statutory anchorage in Section 9(f) of the PITNDPS Act, a provision that mirrors the mandate of Article 22(4)(a). Section 9(f) envisages a stark, binary statutory schema: firstly, should the Advisory Board report a deficit of sufficient cause, the Appropriate Government/Confirmatory Authority's discretionary veneer is summarily stripped away, and it is under an exacting, mandatory obligation to revoke the detention order and effectuate immediate release of the subject. Conversely, where the Advisory Board reports the existence of 'sufficient cause' the statutory language shifts from the mandatory '**shall**' to permissive '**may**'. This shift from mandatory '**shall**' (in case of negative opinion by the Advisory Board) to the permissive '**may**' (in case of positive opinion by the Advisory Board) creates a significant jurisdictional pause. This linguistic nuance signals that the Advisory Board's positive opinion is an enabling factor, but not a compelling factor for the Appropriate Government/Confirmatory Authority to mechanically comply with it. The five Judge Bench of the Hon'ble Supreme Court in **Jayanarayan Sukul** (supra); while interpreting Section 11(1) of the PD Act, 1950, provisions whereof are in pari materia with Section 9(f) of the PITNDPS Act, observed that the government's consideration of a detainee's representation is entirely autonomous and independent of any action or review by the Advisory Board. While a negative report from the Advisory Board leaves the government with no choice but to immediately release the detainee, a positive report from the Advisory Board is not binding, and the government retains the ultimate, independent power to exercise its discretion and release the detainee. Furthermore, the Division Bench of the Hon'ble Bombay High Court in **Rajendraprasad Gupta** (supra) held that the authorized officer must apply his mind and scan the relevant material completely afresh at each distinct stage, whether during approval, consideration of representation, or confirmation; because the underlying legal purpose of the evaluation shifts at every milestone. Specifically, while the original approval stage tests the initial sufficiency of cause to authorize detention, the subsequent confirmation stage requires a fundamentally different assessment: the Appropriate Government/ Confirmation Authority must determine whether the detainee's propensity and potentiality to commit similar offenses still persists at that later date, thereby requiring an independent evaluation of the entire matrix, including the original grounds, any new material, and the Advisory Board's report, to justify extending the detention. It is pertinent to mention herein that the principles enunciated by the Hon'ble Bombay High Court in **Rajendraprasad Gupta** (supra) apply with full force to the present case, albeit, the High Court therein having interpreted Section 12 of the MPCAD Act, 1980, the provisions of which are in pari materia and indeed, verbatim with Section 9(f) of the PITNDPS Act. Consequently, the ratio decidendi of the said judgment directly governs the statutory interpretation required herein.*

8.4. *A bare perusal of Section 9(f) of the PITNDPS Act, reveals that the Appropriate Government/Confirmatory Authority is thus vested with a dual discretion: firstly, it must adjudicate upon the necessity of continued incarceration notwithstanding the Advisory Board's positive*



*recommendation; and secondly, should the Appropriate Government/Confirmatory Authority chose to confirm further detention, it must judiciously calibrate the temporal extent of such detention. A five Judge Bench of the Hon'ble Supreme Court in **Dattatraya** (supra); while dealing with Section 11 of the PD Act, 1950, provisions whereof are verbatim with Section 9(f) of the PITNDPS Act, observed that the phrase '**for such period as it thinks fit**' mandates the detaining authority, upon receiving the Advisory Board's report, to independently decide whether to confirm the detention and determine its specific future duration. This dual discretion is neither ornamental flourish nor a license for executive caprice. Similarly, the exercise of discretion by an administrative authority, particularly in the sensitive theatre of preventive detention, is never an unfettered license for individual whim, rather, it is a legal power held in trust, to be exercised within the rigorous perimeters of the Rule of Law. The statutory employment of the word '**may**' and of phrase '**for such period as it thinks fit**' in Section 9(f) of the PITNDPS Act, is not an investment of unfettered or absolute power; rather, it signifies the vesting of a highly structured legal discretion to be exercised secundum arbitrium boni viri (i.e. according to the judgment of a sound person guided by law and reason). To satisfy the constitutional conscience and withstand the exacting scrutiny of Article 21, the Confirmation Order must stand as an articulate, self-contained testament to the authority's intellectual engagement, constituting a speaking order ex-facie. The independent application of mind by the Appropriate Government/ Confirmatory Authority cannot be a matter of abstract presumption or post-facto rationalization; it must be demonstrably manifested within the four corners of the confirmation order itself. When the Appropriate Government/Confirmatory Authority receives a positive opinion from the Advisory Board, it does not act as a mere passive recording machine or a mechanical conduit. The Appropriate Government/Confirmatory Authority must demonstrate an independent subjective satisfaction, regarding the continuation as also the duration of the detention, which necessitates an exhaustive intellectual engagement with the entire dossier of the detainee; positive opinion of the Advisory Board constitutes merely a part of the whole, whereof.*

*Ergo, the Confirmatory Authority remains legally bound to conduct an exhaustive, independent review of the entire dossier, balancing the personal liberty of the detainee against the societal exigencies contemplated by the PITNDPS Act. If the final confirmation order lacks a discernible narrative of independent reasoning, or if it fails to explicitly justify the temporal extent of the detention with qualitative reasons rather than a mere quantitative declaration, it degenerates into a mere ipse dixit of the executive. A perfunctory or boilerplate/mechanical order that mimics the Advisory Board's conclusions without independent analysis suffers from a fatal non-application of mind. Such an infirmity goes to the root of the Appropriate Government/Confirmatory Authority's jurisdiction, rendering the resultant confirmation order ultra vires, void ab initio, and a flagrant infraction of the procedural safeguards guaranteed under Article 21 of the Constitution, as the procedure established by law becomes a mere hollow shell if its foundational, reasoned safeguards are bypassed or diluted. The Division Bench of the Hon'ble Bombay High Court in **Akshay Bhaskar Sahare** (supra); while dealing with Section 12 of the MPDA Act, 1981, provisions whereof are in pari materia with Section 9(f) of the PITNDPS Act, held that the discretion to confirm preventive detention must be exercised carefully through a reasoned order that evaluates both the initial circumstances and the situation prevailing at the time of confirmation. If the purpose of detention has been achieved, the detainee must be released; however, if extension is necessary, the*



Government must explicitly explain why the threat persists, estimate how long those circumstances will prevail, and calibrate the period of continued detention accordingly.

9. *As a sequiter to the above rumination, the following postulates emerge:*

(i) *Section 9(f) of the PITNDPS Act vests the Appropriate Government/ Confirmatory Authority with a distinct, dual discretion: firstly, it must independently adjudicate upon the substantive necessity of continuing the preventive detention; and secondly, it must qualitatively calibrate and justify the precise temporal duration of such extended confinement. The phrase "for such period as it thinks fit" does not confer absolute power, but signifies a structured discretion to be exercised rationally and proportionately.*

(ii) *The Appropriate Government/ Confirmatory Authority cannot treat a positive/affirmative opinion of the Advisory Board as a mechanical mandate for continued incarceration. The Advisory Board's finding is merely a component of the evidentiary matrix, and not its entirety. The Appropriate Government/ Confirmatory Authority remains legally bound to conduct an autonomous, exhaustive review of the detainee's entire dossier, forming its own independent subjective satisfaction rather than passively adopting the Advisory Board's conclusions.*

(iii) *To satisfy the constitutional safeguards of Article 21, the confirmation order must be a speaking order ex-facie, serving as an articulate, self-contained testament to the authority's mental process. Independent application of mind cannot be presumed or rationalized post-facto; it must be demonstrably manifested within the four corners of the order, explicitly providing clear, cogent reasoning for both the confirmation itself and the specific duration prescribed.*

(iv) *Any confirmation order that acts as a perfunctory rubber stamp or a mechanical/boilerplate replication of the Advisory Board's opinion suffers from a fatal non-application of mind. By failing to visibly project independent analysis and qualitative reasons, the order degenerates into a mere executive ipse dixit. This procedural fracture goes to the root of jurisdiction, thereby, rendering the confirmation order unsustainable."*

7. A perusal of the impugned confirmation order reflects that there is no independent application of mind by the confirmatory/appropriate government which is, indubitably, reflected from the relevant part of the said order, which reads thus:

"An now, therefore, in exercise of the powers conferred by section 9(f) read with section 11 of the Act, 1988, the detention order of Sh. Kewal Singh alias kalli S/o Kheta Singh issued vide Endst. No.05/112/2025-4HC dated 03.12.2025 is hereby confirmed and it is further directed that the period of detention of Sh. Kewal Singh alias Kalli S/o Kheta Singh R/o Village Ghukanwali, Police Station Odhan, Police District Dabwali, Haryana in pursuance of the aforesaid detention order shall be six month from the date of his detention i.e. 05.12.2025."

The *impugned confirmation order* does not disclose any reason whatsoever, either for confirming the order of detention or for determining



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the period for which such detention was to remain operative. The *impugned confirmation order* is, thus, completely bereft of reasons, which are an indispensable facet of a valid determination, particularly when the same entails curtailment of personal liberty. The absence of any discernible reasoning strikes at the very root of the decision-making process and renders the impugned order legally unsustainable. *Ergo*, the same is *sans* reasoning, which is required to be coming forth from an order under challenge. In the factual *milieu* of the case in hand, this Court is of the considered opinion that the impugned confirmation order dated 14.02.2026 cannot be sustained in the eyes of law and deserves to be quashed.

8. In view of the prevenient ratiocination, it is ordained thus:

- (i) The impugned confirmation order dated 14.02.2026 passed by Additional Chief Secretary to Government of Haryana, Home Department, is hereby quashed.
- (ii) The petitioner is directed to be set at liberty, forthwith, if not required in any other case.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

May 22, 2026
Ajay/mahavir

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No