

CWP-22440-2025-1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(218)CWP-22440-2025

Deepak Kumar @ Binni Gujjar... Petitioner

Versus

State of Punjab and others... Respondents

Judgment Reserved on	Judgment Pronounced on	Judgment Uploaded on	Whether only the operative part of the judgment is pronounced	Whether the full judgment is pronounced
20.02.2026	06.03.2026	06.03.2026	No	Yes

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Amit Agnihotri, Advocate, for the petitioner.

Mr. Deepender Singh, Senior Advocate, Addl. A.G., Punjab with
Mr. Kanav Singla, Assistant Advocate General, Punjab and
Mr. Siddharth Sandhu, Assistant Advocate General, Punjab,
for the respondents.

SUVIR SEHGAL, J.

1. Petitioner has approached this Court for issuance of a writ, in the nature of certiorari, for quashing orders/report, dated 12.03.2025 and 28.05.2025, Annexures P-4 and P-7, respectively, passed by respondent-authorities, whereby he has been detained for a period of one year under the provisions of Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (hereinafter referred to as “PITNDPS Act”). After quashing the orders, petitioner has sought his release from imprisonment.
2. Counsel for the petitioner has urged that there is a substantial delay in issuing of the detention order. It is his contention that a proposal to

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detain petitioner was initiated on 09.02.2025 and impugned detention order has been passed on 12.03.2025, Annexure P-4. Counsel has assailed the detention orders on the ground that vital material has been withheld from the detaining authority. He asserts that petitioner has been allegedly found to be involved in four criminal cases lodged for offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS Act”), but the initiating authority concealed that he stands acquitted in one of the cases. Counsel has made a reference to judgment dated 04.02.2025, Annexure P-9, passed by Special Court, Hoshiarpur, to emphasize that petitioner has been given a clean chit in FIR No.149, dated 11.10.2020, registered for offences under Section 21 (c) and 29 of the NDPS Act. It is also his argument that the last criminal case under NDPS Act was registered against petitioner on 01.03.2021 and detaining authority has relied upon stale material to illegally imprison him. He asserts that petitioner was already in custody in some other criminal case and there was no imperative need to pass the detention order. Reliance has been placed by him upon

- (i) ***Bachan Singh Versus Union of India and others, 1990 SCC OnLine Delhi 245;***
- (ii) ***Sama Aruna Versus State of Telangana and another, (2018) 12 SCC 150;*** and
- (iii) ***Sushanta Kumar Banik Versus State of Tripura and others, 2022 SCC OnLine SC 1333.***

3. Upon notice, writ petition has been contested by the respondents by filing a reply by way of affidavit of Additional Chief Secretary, Department of Home Affairs. State counsel has argued that the proposal for detaining petitioner was initiated on 09.02.2025, Annexure R-1, as he was found indulging in illegal activities

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while he was on parole. He submits that there is an intelligence input against petitioner, which was brought to the notice of the competent authority, who passed the detention order, Annexure P-4. He states that the grounds of detention were supplied to petitioner on 12.03.2025, both in English and Punjabi, a language with which he is conversant. Counsel states that petitioner submitted a representation and was given a personal hearing by the Advisory Board and the detention order was confirmed on 14/15.07.2025, Annexure R-13, on basis of report, Annexure P-7. It is his argument that the detention order has been passed within five weeks of the commencement of proposal and there is no delay on the part of respondents. He asserts that the order is in conformity with the provisions of the PITNDPS Act and cannot be quashed on a technical ground. Strength has been drawn by him upon the judgment of the Hon'ble Supreme Court in **State of Maharashtra Versus Umrani Swaminathan Laxman (1997) 11 SCC 426**. State counsel contends that petitioner is a hardened criminal and has 32 criminal cases registered against him, out of which four cases are under the NDPS Act. State counsel asserts the pendency of criminal proceedings under the NDPS Act and incriminating material in possession of respondents is sufficient for the detaining authority to arrive at a subjective satisfaction that petitioner is likely to indulge in the trade of banned substance. It has been emphasized that impugned orders have been passed to restrain petitioner from carrying out activities, which are prejudicial to the health and welfare of the public. He asserts that preventive action is precautionary and not punitive in nature. Reliance has been placed by him upon **Abdul Habib Versus U.T. of J&K and others, Law Finder Doc ID #2655097**. It has also been pointed out by the State counsel that petitioner is undergoing sentence as he has been convicted for murder and an application for suspension of sentence filed by him has recently been rejected by this Court.



4. I have heard counsel for the parties and considered their respective submissions, besides examining the original record produced by the respondents in compliance of order passed by this Court.
5. Petitioner is arraigned as an accused in 28 criminal cases lodged for various offences under the Indian Penal Code. He has also been named as an accused in 4 cases registered under the NDPS Act. The details of the cases are as under:-

Sr. Nos.	FIR details	Recovery effected	Present status of proceedings
1	FIR No. 149, dated 11.10.2020, lodged under Section 21-C and 29 of NDPS Act at Police Station Haryana, District Hoshiarpur	2 kg 100 grams heroin and Indian currency of Rs.15 lacs	Trial has been concluded and two accused, Gurmukh Singh @ Guggu and Jashanprret Singh @ Jashandeep Singh have been convicted. Petitioner and some other accused have been found to be innocent and have been acquitted vide judgment dated 04.02.2025, Annexure P-9.
2	FIR No. 185, dated 27.12.2019, under Section 21 and 29 of the NDPS Act as well as Section 25 of the Arms Act, 1959 at Police Station Sadar, Hoshiarpur	295 grams heroin	Petitioner is on bail
3	FIR No. 81, dated 28.06.2016, under Section 307 IPC, Section 21 of NDPS Act and Section 25 of Arms Act, 1959, at Police Station Garhshankar, District Hoshiarpur	Smack 1 kg 600 grams	Petitioner is on bail.
4	FIR No.28, dated 01.03.2021, under Section 21 and 29 of NDPS Act, at Police Station Model Town, Hoshiarpur	50 gram heroin	Petitioner is on bail



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6. From the above table, it is apparent that 2nd, 3rd and 4th cases are pending before the Trial Court, whereas petitioner has been acquitted in the first case. This development is not being disputed by the respondents and should have formed a part of the proposal, which was initiated on 09.02.2025, to detain the petitioner. It seems that the acquittal of petitioner was not in the knowledge of the proposal initiating authority, nor was it brought to the notice of the competent authority, who passed the impugned orders. It stands established that crucial fact regarding exoneration of petitioner in one of the four NDPS cases has not been considered by the authorities. In Sushanta Kumar Banik's case (*supra*), Hon'ble Supreme Court has observed that requisite subjective satisfaction, the formation of which is a condition precedent to passing of a detention order, gets vitiated if material or vital facts, which have a bearing on the issue and which are likely to influence the mind of detaining authority are suppressed by the sponsoring authority.

7. A perusal of the above reproduced table also shows that the last criminal case was registered against petitioner in the year 2021 under the NDPS Act. Respondents have claimed that while petitioner was on parole, he has maintained contact with hardcore criminals and has also been running a drug smuggling network while in custody. Allegation has also been levelled that petitioner and his spouse made an attempt to leave the country by using a forged passport. Respondents have claimed that in case petitioner is enlarged and he is likely to continue with the obnoxious activity. All the allegations levelled by the respondents are based upon an apprehension and no incriminating material could be brought to the notice of this Court, which would satisfy initiation of a harsh step of detention in preventive custody on the



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basis of mere apprehension. The last criminal case registered against petitioner would clearly qualify as stale material and cannot form the basis of detaining him as has been held by the Hon’ble Supreme Court in Sama Aruna’s case (*supra*) and Ameena Begum Versus State of Telangana and others, (2023) 9 SCC 587.

8. Although, this Court does not find any substance in the argument raised by the petitioner that there was a delay in the passing of the detention order, but the respondents have failed to establish a live as well as proximate link between the past conduct of the petitioner and the imperative need to detain. Preventive detention is an extra ordinary power and has to be exercised sparingly based on credible and proximate evidence of future criminal activities and not solely on the basis of past conduct or vague apprehension. This Court is satisfied that the material relied upon by the detaining authority is not germane to arriving at a subjective satisfaction for passing of the impugned detention orders, which cannot be sustained.

9. For the afore-going reasons, writ petition is allowed. Impugned order, dated 12.03.2025 and order/report, dated 28.05.2025, Annexures P-4 and P-7, respectively, as well as consequential confirmation order passed by the respondent-authorities, are quashed. Necessary consequences shall follow.

(SUVIR SEHGAL)
JUDGE

06.03.2026
Kamal

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