



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

272

CRWP-11931-2025 (O&M)

Date of decision: 04.02.2026

Manoj

....Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

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Present : Mr. Rishab Garg, Advocate for the petitioner.

Mr. Gautam Kaile, DAG, Haryana.

**AMAN CHAUDHARY, J. (ORAL)**

1. The present petition has been filed under Articles 226/227 of the Constitution of India for quashing the orders dated 21.10.2025 and 01.01.2026, Annexures P-4 & P-5, whereby the petitioner was ordered to be detained as a preventive detention measure.

2. Learned counsel submits that despite the fact that cancellation of bail granted to the petitioner, was dismissed vide order dated 09.06.2025, yet the impugned order was passed on 21.10.2025, whereby he was ordered to be placed under preventive detention for 6 months, only on the ground that he had 3 cases against him, which even otherwise, involved non-commercial quantity of ganja.

3. Learned State counsel, on the other hand, submits that the orders have been rightly passed, detaining the petitioner, as he is a habitual offender.

4. Heard.

5. The relevant extract of the order dated 21.10.2025, impugned herein, reads thus:

“Now, therefore, with a view to prevent him i.e. Sh. Manoj S/o Omparkash from committing any offence of Illicit Traffic in Narcotic Drugs and Psychotropic Substances further and to secure the health and welfare of the public at large, I have reached the conclusion that it has become imperative to detain him i.e. Sh. Manoj S/o Omparkash under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 ”

6. **In Shaik Nazneen vs. State of Telangana and other, 2023 (9)**

SCC 633, Hon’ble the Supreme Court set aside the order of detention and that of the Division Bench, while directing the detenu to be released forthwith with the observations that, “Having heard the learned counsel for the petitioner and learned counsel for the State of Telangana, we are of the considered view that in the present case invocation of the Preventive Detention Law against the petitioner was not justified. The powers to be exercised under the Preventive Detention Law are exceptional powers which have been given to the Government for its exercise in an exceptional situation as it strikes hard on the freedom and liberty of an individual, and thus cannot be exercised in a routine manner. The distinction between law and order situation and a public order situation has been dealt with by the Supreme Court in a catena of decisions.” It was further held thus:

“17. Further, in any case, the State is not without a remedy, as in case the detenu is much a menace to the society as is being alleged, then the prosecution should seek for the cancellation of his bail and/or move an appeal to the Higher Court. But definitely seeking shelter under the preventive detention law is not the proper remedy under the facts and circumstances of the case.

18. In fact, in a recent decision of this Court, the Court had to make an observation regarding the routine and unjustified use of the Preventive Detention Law in the State of Telangana. This has been done in the case of Mallada K. Sri Ram Vs. The State of Telangana & Ors. 2022 6 SCALE 50, it was stated as under:

“17. It is also relevant to note, that in the last five years, this Court has quashed over five detention

orders under the Telangana Act of 1986 for inter alia incorrectly applying the standard for maintenance of public order and relying on stale materials while passing the orders of detention. At least ten detention orders under the Telangana Act of 1986 have been set aside by the High Court of Telangana in the last one year itself. These numbers evince a callous exercise of the exceptional power of preventive detention by the detaining authorities and the respondent-state. We direct the respondents to take stock of challenges to detention orders pending before the Advisory Board, High Court and Supreme Court and evaluate the fairness of the detention order against lawful standards.”

19. In view of the above, the appeal stands allowed. The order of detention dated 28.10.2021 and order dated 25.03.2022 of the Division Bench of the High Court of Telangana are set aside. The detenu shall be released forthwith, in case he is not required in any other case.”

7. Hon’ble the Supreme Court in **Roshini Devi vs. State of Telangana**, 2026 SCC OnLine SC 47, quashed the order of detention of the detenu, who was also involved in three cases wherein ganja was recovered, wherein the preventive detention was on the same ground as in the present case that, “It is imperative to prevent you from acting in any manner prejudicial to maintenance of Public Order, I feel that recourse to normal law would involve considerable time and may not be effective deterrent in preventing you from indulging in further activities prejudicial to maintenance of public order in and around Hyderabad District.” Relevant paras of the afore judgment read thus:

“8. The order of detention merely refers to three crimes registered against the detenu on 16.09.2024, 12.12.2024 and 17.12.2024. It may be noted that pursuant to Crime No. 270/2024 dated 12.12.2024, the detenu had been arrested and was in judicial custody when Crime No. 42/2024 dated 17.12.2024 came to be registered. On the premise that if the detenu was released on bail she was likely to indulge in serious offences, the detaining authority proceeded to record that it was satisfied that

cases registered against her under the ordinary law had no deterrent effect in preventing her prejudicial activities. Whether the conditions imposed while enlarging the detenu on bail in the earlier offences were insufficient to prevent her from indulging in similar offences has not been adverted to. It would be profitable to refer to the reason for detention as recorded by the Detaining Authority in the detention order.

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9. In this regard, we may refer to the decision of this Court in Aameena Begum v. the State of Telangana, 2023 INSC 788, wherein the effect of extraneous factors weighing in the mind of the Detaining Authority while passing an order of detention has been considered. Incidentally, the order of detention therein was also passed under the Act of 1986. It has been observed in paragraphs 49 to 52 as under:—

“.....At the same time, the detaining authority ought to ensure that the order does not manifest consideration of extraneous factors. The detaining authority must be cautious and circumspect that no extra or additional word or sentence finds place in the order of detention, which evinces the human factor - his mindset of either acting with personal predilection by invoking the stringent preventive detention laws to avoid or oust judicial scrutiny, given the restrictions of judicial review in such cases, or as an authority charged with the notion of overreaching the courts, chagrined and frustrated by orders granting bail to the detenu despite stiff opposition raised by the State and thereby failing in the attempt to keep the detenu behind bars.

50. What we have expressed above is best exemplified by the observations of the Commissioner in the Detention Order under challenge, which are considered appropriate to be quoted. Therein, the Commissioner inter alia stated as follows:

“The proposed detenu and his associate are notorious offenders and rowdy sheeters....

The proposed detenu was surrendered before the Hon'ble Court in Cr. No. 35/2023 of Falaknuma PS and the Hon'ble Magistrate remanded him to judicial custody, he moved bail petitions in Cr. Nos. 18/2023 of Golconda PS and 35/2023 of Falaknuma PS. The prosecution has filed suitable counters strongly opposing the grant of bail to him, but the Hon'ble Magistrate granted bail to him in both the cases and ordered for his release. Subsequently, he was released from judicial remand on bail.

As seen from his past criminal history, background and antecedents and also his habitual nature of committing crimes one after the other and his efforts to come out of the prison, I strongly believe that if such a habitual criminal is set free, his activities would not be safe to the society and there is an imminent possibility of his committing similar offences by violating the bail conditions in one of the cases, which would be detrimental to public order, unless he is preventively detained from doing so by an appropriate order of detention.”

With respect to the stage of proceedings in the offences which form its basis, the Detention Order states that despite being contested by the State, bail has been granted to the Detenu in Crimes No. 4 and 5. Insofar as grant of bail to the Detenu is concerned, the Commissioner states that:

“I strongly believe that if such a habitual criminal is set free his activities would not be safe to the society and there is an imminent possibility of his committing similar offences by violating the bail conditions in one of the cases, which would be detrimental to public order, unless he is preventively detained from doing so by an appropriate order of detention.”

51. We are of the opinion that the aforesaid excerpts from the Detention Order lay bare the Commissioner's attempt to transgress his jurisdiction and to pass an order of detention, which cannot be construed as an order validly made under the Act. The quoted observations are reflective of the intention to detain the Detenu at any cost without resorting to due procedure. It is neither the case of the respondents that the Detenu had not complied with the terms of the notice issued under section 41-A of the Cr. P.C., nor has it been alleged that the conditions of bail had been violated by the Detenu. It is pertinent to note that in the three criminal proceedings where the Detenu had been released on bail, no applications for cancellation of bail had been moved by the State. In the light of the same, the provisions of the Act, which is an extraordinary statute, should not have been resorted to when ordinary criminal law provided sufficient means to address the apprehensions leading to the impugned Detention Order. There may have existed sufficient grounds to appeal against the bail orders, but the circumstances did not warrant the circumvention of ordinary criminal procedure to resort to an extraordinary measure of the law of preventive detention.

52. In *Vijay Narain Singh v. State of Bihar*, (1984) 3 SCC 14, Hon'ble E.S. Venkataramiah, J. (as the Chief Justice then was) observed:

32. ...It is well settled that the law of preventive detention is a hard law and therefore it should be strictly construed. Care should be taken that the liberty of a person is not jeopardised unless his case falls squarely within the four corners of the relevant law. The law of preventive detention should not be used merely to clip the wings of an accused who is involved in a criminal prosecution. It is not intended for the purpose of keeping a man under detention when under ordinary criminal law it may not be possible to resist the issue of orders of bail, unless the material available is such as would satisfy the requirements of the legal provisions authorising such detention. When a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinising the validity of an order of preventive detention which is based on the very same charge which is to be tried by the criminal court."

(underlining ours, for emphasis)"

Thus, mere apprehension on the part of the detaining authority that in the event of the detenu being released on bail, she was likely to indulge in similar crimes that would be prejudicial to maintenance of public order would not be a sufficient ground to order her preventive detention."

8. The detenu, who was involved in 3 cases under NDPS Act and had been granted bail in all the cases, while the applications filed by the State for cancellation thereof were dismissed, was ordered to be released from detention by the Division Bench of the High Court of Calcutta in **Jahanara Bibi vs. Union of India**, 2025 SCC OnLine Cal 7003, to which no challenge was made, by observing thus:

"27. In the decision of the Hon'ble Apex Court in *Ameena Begum v. State of Telangana*, 2023 SCC OnLine SC 1106, the facts were surprisingly similar, in as much as in the said case there were three criminal proceedings, in all of which the detenu had been released on bail. The Hon'ble Apex Court held that in view of the enlargement on bail in three criminal cases, the provision of the Act, which is an extraordinary statute, could not have been

resorted to when ordinary criminal law (NDPS Act, 1985) provides sufficient means to address the apprehension leading to the impugned detention order. In fact, in the present case, the application seeking cancellation of bail was also dismissed by a Division Bench of this Hon'ble Court.

28. The law of preventive detention as espoused through various decisions of the Hon'ble Supreme Court of India and several High Courts of this country are all ad idem on one fundamental issue, that is, preventive detention is an aberration of the right to freedom of an individual's personal liberties. Thus, to give credence to such an aberration, the probative value of the materials on record must be of a very high order to justify suspending an individual's right to freedom and liberties.

29. It is a well settled proposition, through years of judicial pronouncements as late as in 2025 by the Hon'ble Supreme Court of India that preventive detention is an extraordinary power in the hands of the State which must be used sparingly as it curtails the liberty of an individual in order to prevent an anticipated commission of an offence which could disrupt public order. Needless to say that preventive detention is an exception to Article 21 and therefore must be applied only in rare cases.

30. Any order of detention, on the basis of allegation, prior to a conviction is nothing but an invasion of personal liberty of an individual and should therefore adhere strictly to the statutory requirement and even stricter procedural and substantive safeguards as envisaged under Article 22 of the Constitution of India. The Hon'ble Apex Court in several of its decisions has reiterated that the power of preventive detention is a “necessary evil and must be exercised only within strict statutory and constitutional confines”. The detaining authority must have contemporaneous and relevant material to which an application of mind without relying on conjecture and assumption must be shown. Keeping in mind the limited scope of interference in judicial review, we cannot turn a blind eye to the detaining authority's mechanical adoption of the recommendations given by the police authority. A mere line that the petitioner's enlargement into civil society may give rise to threat and harm to the society at large is wholly insufficient and inadequate to suspend her personal liberties.

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32. The legal distinction between preventive and punitive detention is well established. The former aims to forestall future prejudicial acts, the latter to punish past ones. Yet from the point of the detenu, the practical reality is the

same: loss of liberty, separation from family, and confinement behind prison walls. Indeed, preventive detention, imposed without trial, can be more intrusive to personal liberty than punitive detention. This is why the Constitution and the statute subjects such orders to strict safeguards, and why the Supreme Court has cautioned that preventive detention must not be used as a convenient substitute for punishment under the ordinary criminal process. Where the real object is to incarcerate for past offences, or to continue custody despite a court granting bail, the order loses its preventive character and becomes unconstitutional.”

9. Indubitably, the State had filed an application seeking cancellation of bail granted to the petitioner in case-FIR No. 109 dated 21.03.2024 on the ground that he was involved in other cases of a like nature and had thereby violated the conditions of bail, which came to be dismissed and was not challenged any further. The aforesaid legal pronouncements rendered in a similar set of facts and circumstances, make the principles evident with regard to the release of an accused from preventive detention, elucidating that the same cannot be resorted to as a substitute for cancellation of bail. Accordingly, the present petition is allowed.

10. The impugned orders dated 21.10.2025 and 01.01.2026, Annexures P4 and P5, respectively are quashed. The petitioner-detenu be released forthwith if not required in any other proceedings.

04.02.2026  
ashok

(AMAN CHAUDHARY)  
JUDGE

Whether speaking/reasoned : Yes / No  
Whether reportable : Yes / No