



2026:AHC:126180-DB

Reserved on:- 27.05.2026

Delivered on:- 8.6.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 179 of 2026

Mulla Afroz

.....Petitioner(s)

Versus

Union Of India And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vikas Srivastava
Counsel for Respondent(s)	:	A.S.G.I., G.A., Shiv Kumar Pal

In Chamber

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

(Per Siddharth, J.)

1. Heard Sri Vikas Srivastava and Sri Chandan Srivastava, learned counsel for the petitioner; Sri Rupak Chaubey, learned A.G.A.-I for the State; Sri S.K. Pal, learned Deputy Solicitor General of India assisted by Sri Prem Shankar Prasad, learned counsel for Union of India; and perused the record of the State Government.

2. The writ petition has been filed praying for following reliefs :-

"(i) Issue a writ or direction in the nature of certiorari to quash the order dated 13.10.2025, vide letter No. 525 / न्याय सहायक / निरुद्धि / 2025, passed by District Magistrate, Sambhal, as well as the order dated 28.11.2025, vide Letter No. 108/2/15/2025-CM-7, passed by Special Secretary Home, U.P. Government, Lucknow.

(ii) Issue a writ order of the nature of Habeas Corpus to release the petitioner forthwith.

(iii) Issue any other appropriate writ, order or direction to which the petitioner be found entitled under the facts and circumstances of the case.

(iv) To award costs in favour of the petitioner."

3. The brief facts of the petition are that the petitioner was arrested by the police of the police station- Nakhasa, Sambhal on 17.01.2025, and since then he is in jail and no certified copy of detention order regarding the N.S.A

were provided to the petitioner, therefore, the petitioner annexed the photocopy of the order dated 13.10.2025 as well as the order dated 28.11.2025 with the present writ petition. In respect of illegal detention of petitioner in pursuance of the detention order, passed by District Magistrate, Sambhal, which was not at all served to the petitioner (detenu), as evidence by letter and the list sent by the District Magistrate, Sambhal, dated 13.10.2025, addressed to the Superintendent, District Jail- Moradabad and representation against the confirmation order by the Special Secretary, Home (Confidential Department), Government of U.P., dated 21.10.2025, served to the petitioner on 21.10.2025. The petitioner is giving the details in respect of his conduct and implication in Case Crime No. 306/2024, 337/2024, 338/2024, 339/2024, 340/2024 and also submitting the reply of the documents provided to the petitioner (detenu) by letter of District Magistrate dated 13.10.2025 addressed to Superintendent District Jail, Moradabad.

4. Along with letter of District Magistrate, dated 13.10.2025, addressed to the Superintendent District Jail, Moradabad 22 documents were provided to the petitioner (detenu). The details of the document provided to the petitioner (detenu) are as under :-

" 1. सक्षम अधिकारी/मजिस्ट्रेट द्वारा बल प्रयोग हेतु दिये गये आदेश की प्रति।

2. प्रथम सूचना रिपोर्ट मु0असं0 337/2024 धारा 191(2), 191(3), 190, 109(1), 125(ए), 125(बी), 221, 132, 121(1), 121(2), 324(4), 223(बी), 326(एफ) भारतीय न्याय संहिता एवं धारा 7 आपराधिक कानून (संशोधन अधिनियम) धारा 3/4 सार्वजनिक सम्पत्ति नुकसान निवारण व धारा 3/25/27 आयुध अधिनियम की प्रमाणित प्रति।

3. मु0असं0 337/2024 धारा 191(2), 191(3), 190, 109(1), 125(ए), 125(बी), 221, 132, 121(1), 121(2), 324(4), 223(बी), 326(एफ) भारतीय न्याय संहिता एवं धारा 7 आपराधिक कानून (संशोधन अधिनियम) धारा 3/4 सार्वजनिक सम्पत्ति नुकसान निवारण व धारा 3/25/27 आयुध अधिनियम की कायमी की प्रमाणित नकल रपट नं0 65 दिनांक 24.11.2024 समय 20:30 बजे थाना सम्भल जनपद सम्भल।

4. विधि विज्ञान प्रयोगशाला, उत्तर प्रदेश लखनऊ द्वारा घटनास्थल से संकलित की गई साक्ष्य एवं 08-12 घटना स्थल निरीक्षण रिपोर्ट की प्रमाणित प्रति।

5. दिनांक 26.11.2024 समय 18:18 बजे थाना सम्भल पर दाखिल किये गये माल से सम्बन्धित नकल रपट सं0 58 की प्रमाणित प्रति।

6. दिनांक 25.11.2024 समय 06:08 बजे थाना सम्भल पर फील्ड यूनिट द्वारा घटनास्थल से संकलित कर दाखिल किये गये सामान से सम्बन्धित नकल रपट सं0 12 की प्रमाणित प्रति।

7. दिनांक 25.11.2024 समय 14:50 बजे थाना सम्भल पर फील्ड यूनिट द्वारा घटनास्थल से संकलित कर दाखिल किये गये सामान से सम्बन्धित नकल रपट सं0 44 की प्रमाणित प्रति।

8. दिनांक 24.11.2024 को शांति व्यवस्था के उद्देश्य से थाना सम्भल पर आगमन करने जाने वाले पुलिस बल के रोजनामचा आम की प्रमाणित प्रतियां।

9. उक्त प्रथम सूचना रिपोर्ट की विवेचना के क्रम में अंकित किये गये गवाहान के बयानों की प्रति संलग्नक से तका।

10. मु0अ0सं0 338/2024 धारा 103(1) भारतीय न्याय संहिता थाना सम्भल जनपद सम्भल की प्रमाणित प्रथम सूचना रिपोर्ट प्रति।

11. मु0अ0सं0 306/2024 धारा 103(1) भारतीय न्याय संहिता थाना नखासा जनपद सम्भल की प्रमाणित प्रथम सूचना रिपोर्ट प्रति।

12. मु0अ0सं0 340/2024 धारा 103(1) भारतीय न्याय संहिता थाना सम्भल जनपद सम्भल की प्रमाणित प्रथम सूचना रिपोर्ट प्रति।

13. मु0अ0सं0 339/2024 धारा 103(1) भारतीय न्याय संहिता थाना सम्भल जनपद सम्भल की प्रमाणित प्रथम सूचना रिपोर्ट प्रति।

14. घटना में घायल हुये पुलिस अधिकारियों एवं कर्मचारियों की चिकित्सीय परीक्षण आख्याओं की प्रमाणित प्रतियां।

15. नकल रपट नं0 94 दिनांक 18.01.2025 समय 22:30 थाना सम्भल अंकित मु0अ0सं0 187-195, 337/2024 की केस डायरी के पर्चा सं0 61 में अंकित तस्करा पूछताछ एवं अभियुक्त मुल्ला अफरोज के बयानों की प्रति।

16. मु0अ0सं0 337/2024 धारा 191(2), 191(3), 190, 109(1), 125(0), 125(0), 221, 132, 196-274, 121(1), 121(2), 324(4), 223(बी), 326(एफ), भारतीय

न्याय संहिता एवं धारा 7 आपराधिक कानून (संशोधन अधिनियम), धारा 3/4 सार्वजनिक सम्पत्ति नुकसान निवारण व धारा 3/25/27c5 आयुध अधिनियम के अन्तर्गत माननीय न्यायालय को प्रेषित आरोप पत्र की प्रमाणित प्रति।

17. दिनांक 26.11.2024 से दिनांक 27.11.2024 तक इन्टरनेट सेवा बन्द कराये जाने हेतु किये गये आवेदन एवं आदेशों की प्रमाणित छायाप्रतियां।

18. विभिन्न समाचार पत्रों में प्रकाशित समाचार पत्रों की प्रमाणित छायाप्रति।

19. रपट नं0 40 समय 16:45 बजे दिनांक 28.08.2025 को थाना नखासा जनपद संभल पर अंकित की गई बीट सूचना एवं दिनांक 30.08.2025 को थाना संभल जनपद संभल पर अंकित की गई बीट सूचना रपट नं0 12 समय 07:41 दिनांक 30.08.2025 की प्रमाणित प्रति।

20. रपट नं0 40 समय 16:45 बजे दिनांक 28.08.2025 को थाना नखासा जनपद संभल पर अंकित की गई बीट सूचना एवं दिनांक 30.08.2025 की जांच की प्रमाणित प्रति।

21. माननीय उच्च न्यायालय ऑनलाइन स्टेटस रिपोर्ट इलाहाबाद में अभियुक्त मुल्ला अफरोज द्वारा माननीय उच्च न्यायालय के समक्ष दायर की गये जमानत प्रार्थना पत्र के सम्बन्ध में माननीय उच्च न्यायालय इलाहाबाद की साइट से प्राप्त स्टेटस की प्रति।

22. सामाजिक संगठन द्वारा दिया गया ज्ञापन तथा स्थानीय अभिसूचना इकाई द्वारा दी गयी गोपनीय रिपोर्ट की प्रमाणित प्रति। "

5. Learned counsel for the petitioner submits that after going through the list of documents it is clear that detention order as well as ground of detention were not provided to the petitioner (detenu). The letter of the District Magistrate, dated 13.10.2025, addressed to the Superintendent, District Jail, Moradabad clearly indicates that the detention order and grounds of detention along with the aforesaid documents were not received by Superintendent, District Jail, Moradabad and he was directed to read over and explained about the detention order and grounds of detention to the petitioner.

6. He has further submitted that it is clear that the detention order, passed by District Magistrate, Sambhal and the grounds of detention were not served to the petitioner (detenu), therefore, the detention of the petitioner (detenu) as evident by the letter of District Magistrate, Sambhal, dated 13.10.2025 is

absolutely illegal, not sustainable in the eyes of law, arbitrary in manner and against the principle of natural justice.

7. The petitioner is law abiding person and he is the reputed and respectable businessman in District Sambhal and property dealer. The petitioner is an income tax payee and is regularly paying the income tax.

8. In pursuance of an order, passed by Civil Judge (S.D.), Sambhal in Case No. 182 of 2024, Hari Shankar Jain vs. Union of India and others, a Court Commission was issued and Court Commissioner had informed to District Magistrate for the survey in Jama Masjid and requested to provide Police Protection. After receiving the aforesaid information from Court Commissioner, the District Magistrate wrote to Police Superintendent Sambhal to provide police protection. Superintendent of Police, Sambhal wrote a letter to District Magistrate, Sambhal and informed that the police force is not available due to the election of assembly, therefore, he is unable to provide the police force is not available due to the election of assembly, therefore, he has unable to provide police force for survey on 20.11.2024.

9. Learned counsel for the petitioner has submitted that it is most pertinent to submit here that the first F.I.R of Case Crime No. - 333 of 2024 was registered at police station- Kotwali Sambhal, District- Sambhal in respect of riot of Jama Masjid at Sambhal. In the aforesaid violence of Jama Masjid case four persons, namely, Naeem, Balal, Kaif and Ayad, died but the police malafidely insisted the relatives of the deceased to lodge the separate F.I.Rs of all the aforesaid 4 murders, alleging the deceased died on account of firing made by public. In fact all the aforesaid four persons died on account of firing made by the local police in violence of Jama Masjid on 24.11.2024.

10. The petitioner is innocent and has been falsely implicated in this case on account of malafide intention of police to give the colour of the case and to shift their burden of murder of 4 persons (Belal, Ayan, Mohd. Kaif and Naeem) in violence of Jama Masjid case upon the petitioner. More so, in respect of the incident dated 24.11.2024 in violence of Jama Masjid case, a F.I.R of Case Crime No. 333 of 2024 has already been lodged on the same day i.e., on 24.11.2024 by S.I. Sanjeev Kumar. In the aforesaid F.I.R of Case Crime No. 333 of 2024 one Ayan (deceased) was also named as an accused. Therefore, no question arise to lodge a second F.I.R of the same incident dated 24.11.2024 as Case Crime No. 306/2024, Case Crime No. 337/2024, Case Crime No. 338/2024, Case Crime No. 339/2024 and Case Crime No. 340/2024. The detention of the petitioner and second F.I.R is absolutely illegal, not sustainable in the eyes of law and is clear gross abuse of the process of the Court.

11. In respect of the incident dated 24.11.2024 several persons from the side of the public received injury from police party. Four public persons died. In

respect of the aforesaid, F.I.R of Case Crime No. 333 of 2024 has already been lodged by S.I. Sanjeev Kumar, against 8 persons including one, Ayan (deceased). On the basis of the eye witness account, C.C.T.V. footages, C.D.R., a charge sheet was submitted against several persons. The petitioner was not named in the F.I.R and no direct evidence was found against the petitioner. After about 55 days of the incident dated 18.01.2025 on the basis of extra-judicial confession made before the police the petitioner has been falsely implicated in all the criminal cases. However, no direct or circumstantial evidence was found against the petitioner in all the crime numbers to show the involvement of petitioner in murder of 4 public persons, namely- Belal, Mohd. Kaif, Ayan and Naeem.

12. In violence of Jama Masjid, Sambhal case, during the survey of Court Commission dated 24.11.2024 several persons received the injury from both side, i.e., public side and police party. In the aforesaid violence four persons, namele, Belal, Ayan, Mohd. Kaif and Naeem died. The aforesaid violence was between police party and muslim community at the time of survey in Jama Masjid. The medical evidence as well as F.S.A. Report clearly proved that the injury received by deceased persons were caused by bullet of 315 bore (mostly used in riffle by police). More so, after about 55 days of the aforesaid incident dated 24.11.2024, the police shown the arrest of the petitioner on 18.01.2025 and recovered pistol of 32 bore, which does not corroborate the medical evidence of the deceased persons. As per the evidence collected during investigation the aforesaid deceased persons received the injury by the firing of police persons. The police persons shifted the burden of more than 4 public persons in the firing took *tehreer* from the family members of deceased and deliberately and intentionally lodged all the aforesaid second F.I.Rs. The second F.I.R is not permissible in the eyes of law for the same incident. In all the second F.I.Rs no accused was named,, but investigation in all the second F.I.Rs of the incident dated 24.11.2024, the name of the petitioner (detenu) opened on the basis of his extra-judicial confession made before the police, which is not admissible in the eyes of law.

13. The petitioner was arrested on 17.01.2025, but his arrest was shown by the police on 18.01.2025. It is most pertinent to submit here that till 17.01.2025, there is no evidence either direct or circumstantial or electronic evidence against the petitioner. After the illegal arrest of the petitioner on 17.01.2025, the police had shown the arrest of the petitioner on 18.01.2025. In the aforesaid period of illegal arrest between 17.01.2025 to 18.01.2025 the police made tortured the petitioner. After torture and threat of murder (encounter), the petitioner was compelled by the police to make extra judicial confession before the police in respect of involvement in the aforesaid violence and in the aforesaid cases. The extra judicial confession made by the petitioner before the police, under threat of his murder, is not at all admissible in the eye of law.

14. The Investigating Officer of Case Crime No. 337 of 2024, recorded the statement of District Magistrate, Sambhal namely Dr. Rajendra Paisiya, under Section 180 B.N.S.S. In his statement the District Magistrate admitted that in District Sambhal, Section - 144 Cr.P.C. (163 BNSS) was in operation since 1.10.2024 up to 30.11.2024. Therefore, no question arise to disturb the public order by the petitioner. More so he is in jail in false and frivolous cases registered by the police on the same day and implicated the petitioner in all the cases.

15. As per law laid down where the order of detention was passed because the detaining authority was apprehensive that in case the detenu was released on bail, he would again carry on his criminal activities in the area, the same detention order was not proper. If the apprehension of the detaining authority was true, the bail application has to be opposed and in case Bail was granted, challenged against that order in the higher forum had to be raised. Merely on the ground that the accused in detention as in under trial prisoner was likely to get bail, an order of detention under the Act are not ordinarily be passed.

16. The Article 22(5) reflects a keen awareness of the framers of the Constitution that preventive detention leads to the detention of a person without trial and hence it in corporate procedural safeguards, which mandate and immediacy in terms of time. The significance of Article-22 is that the representation which has been submitted by the detenu must be disposed of at an early date. The communication of the grounds of detention as soon as may be and the affording of the earliest member to submit a representation against the order of detention will have no constitutional significance unless the containing authority deals with the representation and communicates its decision with expeditious.

17. The provisions of the National Security Act subscribed to the Article 22(5), Section 3 (4) contents a requirement that once an order of detention has been made, the officer making the order must forthwith report the facts to the State Government, together with the grounds on which the order has been made and other particulars which had a bearing on the matter. No such order shall remain enforce for more than 12 days, unless it has been approved by the State Government. In the meantime this order is subject to the proviso which stipulates that where the grounds of detention are communicated by the officer after 5 days, but not later than 10 days from the letter of detention, sub-section (4) will apply if the words 15 days substituted for 12 days. Upon the state government either making the order approve the order under Section 3, it is under a mandate under Section 3(5) to report the fact to the Central Court within 7 days, together with the grounds on which the order has been made and order necessarily particulars.

18. The State Government at the time of confirming the detention order, passed by District Magistrate did not consider the service of the grounds of detention and detention order of petitioner is illegal, arbitrary in manner and

cyclostyle manner approved the detention order. The action upon the report of advisory board has been defined under Section 12 of the National Security Act. For the convenience of the Hon'ble Board Section 12 of the National Security Act is being quoted below :-

"12. Action upon the report of the Advisory Board.- (1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of a person, the appropriate government shall revoke the detention order and cause the person concerned to be released forthwith."

19. The petitioner has also sent a representation to the District Magistrate, Sambhal, which was rejected by the District Magistrate, Sambhal on 31.10.2025 on the grounds of time barred.

20. A counter affidavit has been filed on behalf of respondent no. 3, District Magistrate, Sambhal.

21. It has been averred in the counter affidavit aforesaid that before giving para-wise reply of the writ petition, it is bring into kind notice of this Hon'ble Court that the learned Civil Judge, Senior Division, Chandausi, District Sambhal had passed an order dated 19.11.2024 in Civil Case No. 182 of 2024, constituting a Court Commission to conduct a survey of the Shahi Jama Masjid-Harihar Temple located in Sambhal City. Mr. Ramesh Singh Raghav, Advocate, was appointed as the Court Commissioner and was ordered to conduct a survey of the Shahi Jama Masjid, photograph and videography of the entire proceedings, and submit a report to the learned Court concerned by 29.11.2024. In compliance of the learned Court's order, on 19.11.2024, the Court Commissioner, the complainant, opposite parties, their advocates, and the necessary police force visited the Shahi Jama Masjid premises.

22. The senior police and administrative officials were also present during the entire survey. The survey continued for about one and a half hours, but due to insufficient lighting, only partial photography and videography was possible. During the course of survey, a crowd gathered outside the premises and started shouting slogans in protest. The mosque committee requested that the survey be stopped during the daytime, accompanied by photography and videography, due to the inability to control the crowd. The Advocate Commissioner then postponed its proceedings. Later, the survey team then fixed the date for the remaining survey on 24.11.2024. Before survey, senior police and administrative officials held talks with all stakeholders and

informed them of the survey situation, stating that only the survey proceedings were to be carried out in compliance of the learned court's order, and no process for possession was being undertaken.

23. Since the Jama Masjid was to be surveyed, keeping in mind the sensitivity of the matter and law and order, starting at 06:00 AM on 24.11.2024, SHOS/SOs, police personnel, and PAC personnel from across the district were deployed at various locations around the Jama Masjid and throughout the Sambhal city area. Senior police and administrative officials also regularly visited the area to ensure peace and order. The survey team, along with members of both parties and police teams, was sent inside the mosque, and the survey process began

24. While the survey team was conducting the survey in compliance of the court's order, about 8:00 a.m, information was received that an angry crowd was advancing towards the Jama Masjid gate and houses of Hindus, and that people had gathered on the rooftops. Upon this, senior police and administrative officials and police team requested them to pacify the situation and maintain peace in the area. They themselves made every effort to pacify the crowd. However, the petitioner and his associates had already gathered and enraged the crowd by providing misleading and false information. The crowd, chanting "Allahu Akbar," began advancing with the intention of disrupting the survey team's work and refused to yield to any persuasion.

25. About 08:45 a.m., the crowd grew larger, and some began pelting stones at the police team. Sub-Inspector Sanjeev Kumar's 9 m.m. pistol magazine, Constable, Kapil Kumar's rubber bullet box, Constable, Pankaj Kumar's 25 blank cartridges, and Constable Rajpal Singh's shoulder bag containing 15 cartridges were stolen from them after being assaulted.

26. The Sub-Inspector, Sanjeev Kumar and other officers sustained serious injuries in the stone-pelting and assault. In this way, when a violent atmosphere was created, the police and administrative officers along with other police forces, PAC force, RAF themselves arrived at the spot to establish peace and tried their best to convince the mob and requested to return the looted weapons and cartridges etc., then the mob started pelting stones at the police in large numbers with the intention of killing them, in which police personnel and officers were injured, and thereafter, the crowd was explained that the provisions of section 163 BNSS was imposed, they should move away otherwise force can be used in accordance with the provisions, but the crowd became more agitated and the petitioner and his other companions in the crowd, along with pelting stones, started firing with illegal weapons in their hands as per a pre-planned scheme and while pelting stones and vandalizing the properties of the general public, broke the wall of the Jama Masjid protected area, burnt electric wires, badly damaged government and private vehicles and started setting vehicles on fire,

breaking the glass windows of houses etc., and started moving towards the police force with the intention of killing them.

27. Due to the violent action carried out by the mob instigated by the petitioner, the public order of the entire Sambhal city as well as the surrounding areas was completely disrupted, an atmosphere of chaos was created, shopkeepers pulled down their shutters and the public closed the doors and windows of their houses due to fear and everyone started looking for a place to hide and the people who were shopping ran away or hid inside the shops due to fear.

28. The police force present on the spot, after obtaining orders from the concerned magistrate to use force to disperse the miscreants in order to maintain public order and peace in the area and to ensure compliance of the order of the learned concerned court, fired from tear gas gun and rubber bullets, due to which the crowd dispersed and from around the Jama Masjid premises, the same crowd, raising frenzied slogans, moved towards Mohalla Hindupura Kheda under Police Station- Nakhasa area, which the Superintendent of Police, District - Sambhal, along with police force, tried to control, but the violent mob again opened fire on the police force, in which the mob Superintendent of Police, Sambhal and his public relations officer were injured by firearms. In this regard, a case was registered at Police Station- Nakhasa.

29. The weapons, cartridges and shells etc. recovered from the arrested persons by the police team, were taken into custody, and thereafter, a physical inspection of the damage caused to public and government property by the rioters was done, and it was found that some of the rioters were lying on the ground in an injured condition, who were immediately sent to the hospital for treatment by the police team, however, some of them died during treatment or on reaching the hospital due to injuries sustained due to firing and stone pelting by the miscreants.

30. The petitioner and his companions present in the crowd instigated and provoked the crowd and set on fire three cars including Constable 585 Gulab Singh' (of Police Station Junawari) car no. UP-81-DD-0478 Swift VXi and car no. UP-38-Z0878 Baleno and another Skoda car number DL-1CV-2019, four motorcycles including that of Sub-Inspector Shri Vikas Nirwal's (of Police Station Bahjoi) motorcycle no. UP-19-S-4011 Pulsar, Constable 1271 Krishnapal's (of Police Station Bahjoi) motorcycle no. UP-14-BH-5051 Splendor, Constable 127 Harendra Singh's (of Police Station Bahjoi) motorcycle no. UP-20-BL-5065 Pulsar and Sub-Inspector, Shri Krishna Kumar's (of Police Station Hayatnagar) motorcycle no. UP-16-W-3295 CD Deluxe were also set on fire.

31. The vehicles were engulfed in flames at the scene, and the front windshield, headlights, and left-side mirror of Chandausi Circle Officer, Mr.

Santosh Kumar Singh's government vehicle no. UP-38-AG-0154, were also smashed by the rioters. A portion of the wall of the Jama Masjid protected area was also broken. The glass windows, CCTV cameras and electrical wires of the houses surrounding the incident site were also severely damaged.

32. The said incident was also published in the daily newspapers. It is further humbly submitted that due to the aforesaid incident, extreme fear, terror, anger, and resentment spread throughout the district of Sambhal and other districts of Uttar Pradesh. Near the places of occurrence and adjoining areas, Members of the public were confined to their homes, closing doors and windows, shopkeepers pulled down their shutters and closed their shops, and customers who were shopping somehow saved their lives by hiding, leaving behind their shoes and slippers and running away. This act, committed by petitioner and his other associates, adversely affected public order in the entire Sambhal city area as well as the surrounding districts. The Government of Uttar Pradesh had declared a security alert in the surrounding districts.

33. Alert was declared and internet and SMS services were suspended to maintain public peace and order. Along with additional police force, RAF, PAC force and additional force from various police stations were deployed in the area and tireless and continuous efforts were made to maintain normal public order in the area, in which after many days the public order of the area could be maintained as normal, but till now due to this incident, an atmosphere of fear, terror and anger prevailed among the general public of the entire area.

34. In this regard, a first information report bearing Case Crime No. 337 of 2024, under sections 191(2), 191(3), 190, 109 (1), 125(A), 125 (B), 221, 132, 121(1), 121(2), 324(4), 223 (B), 326 (F), 317(3) of I.P.C, section 7 of the Criminal Law (Amendment) Act, section 3/4 of the Prevention of Damage to Public Property Act and section 3/25/27 of the Arms Act was registered at Police Station- Sambhal by Shri Anuj Kumar Tomar, Station House Officer of Police Station- Sambhal, District- Sambhal.

35. It is further humbly submitted that the entire materials in the case diary has established the guilt of the petitioner; hence based on irrefutable and incontrovertible materials, collected by the investigating officer during the course of fair and impartial investigation, a charge sheet against the petitioner and other accused persons was submitted in the concerned court.

36. The fallout of the incident, committed by the petitioner alongwith his associates, had culminated into chaos disturbing the congenial atmosphere, flaring communal feeling, affecting the maintenance of public. The act of the petitioner developed awful and terrible scene. There was horrific and

horrendous scene. The act of the petitioner had demolished the public order in the whole locality and ultimately, additional police forces were deployed to control the situation. It an organized act, which was prejudicial to the maintenance of public order. The petitioner was found to be involved in provoking for riots in an organised manner. He was found to have fired at that time which resulted in death of some persons; hence after being subjectively satisfied; the deponent took preventive action against the petitioner under section 3(2) of the National Security Act on 13.10.2025. The petitioner has been rightly detained under section 3(2) of National Security Act after complete subjectively satisfaction on the basis of material available on the record and there is no violation of any fundamental right as provided in The Constitution of India to every citizen of this country.

37. The deponent had gone through the report of Station House Officer of Police Station Kotwali dated 03.10.2025 / forwarded by the Circle Officer-Sambhal on 04.10.2025 / forwarded by the Add. Superintendent of Police - (North), Sambhal on 08.10.2025 and the report dated 09.10.2025 sent by the Superintendent of Police, Sambhal as well as annexures and records appended therein and also on the basis of material available on the record, and after being subjectively satisfied, the deponent took preventive action against the petitioner under section 3(2) of the National Security Act on 13.10.2025.

38. The detention order dated 13.10.2025 alongwith grounds of the detention with all relevant materials was served to the petitioner through the Jail authorities on 14.10.2025, as he was in judicial custody at District Jail, Moradabad, to afford him the earliest opportunity for making an effective representation. Moreover, when the detention order was served, the petitioner was informed not only regarding the grounds grounds of the detention but also regarding the right of the representation to the different authorities including the District Magistrate, Sambhal (answering respondent). The deponent considered the immense possibility of petitioner being released on bail and upon release, his further indulgence in similar type of activities, which will be pre-judicial to the public order, with a view to prevent the petitioner from acting in any manner prejudicial to the maintenance of public order, the petitioner has been rightly detained under section 3(2) of National Security Act after complete subjectively satisfaction on the basis of material available on the record and there is no violation of any fundamental right as provided in Constitution of India to every citizen of this country.

39. While the petitioner was in judicial custody in the aforesaid case, the said detention order dated 13.10.2025 alongwith grounds of the detention with all relevant materials was served to the petitioner through the Jail authorities on 14.10.2025, as he was in judicial custody at District Jail, Sambhal. The detention order along with grounds of detention were forwarded to State Government, Central Government and Advisory Board on 13.10.2025 itself.

41. Along with the grounds of detention, all the annexed materials, which were placed and considered, were supplied to the petitioner on 14.10.2025 through the Jailor, District Jail, Moradabad to afford him the earliest opportunity for making an effective representation.

42. When the detention order was served, the petitioner was informed not only regarding the grounds of the detention also regarding the right of the representation to the different authorities i.e., the Detaining Authorities, Advisory Board and the Central Government. The petitioner was also informed to submit the representation at earliest and if, he desires to submit the representation to District Magistrate / Detaining Authority, then the petitioner was informed to submit the same within 12 days or before approval of the detention order, whichever was earlier.

43. Aforesaid detention order was approved by the State Government on 21.10.2025 and the petitioner was accordingly informed through the Jail Authorities on 21.10.2025.

44. The petitioner submitted his representation dated 27.10.2025 in sets at District Jail, Sambhal on 28.10.2025, which was sent to the office of deponent through Jail Authorities on the very same day i.e., on 28.10.2025.

45. After a careful examination of the facts and the relevant records, the deponent found that the detention order dated 13.10.2025 was rightly passed on the basis of cogent materials. The deponent further found that the State of Government has already confirmed the detention order of petitioner on 21-10-2025. The petitioner has submitted his representation after 12 days of the detention order as well as after confirmation of it by the state Government. Therefore, the deponent has rightly rejected the representation of the petitioner on 31.10.2025 and the information regarding rejection of the said representation alongwith the order, was communicated to the petitioner through Jail Authorities on 31.10.2025.

46. The aforesaid representation dated 27.10.2025 was also rejected by the State Government on 12.11.2025 and the petitioner was informed on 12.11.2025 through the Jail Authorities.

47. Representation was too rejected by the Central Government on 27.11.2025 and the petitioner was informed on 27.11.2025 accordingly through the Jail Authorities.

48. During the course of hearing before the Advisory Board, the deponent and the S.P. Sambhal were summoned by the Board and they personally appeared before the said Authority on 15.11.2025. The petitioner also personally appeared before the Advisory Board on 15.11.2025. After receiving the report of Advisory Board, the said detention order was confirmed on 28.11.2025 by the State Government for the period of twelve (12) months from the date of detention i.e., from 13.10.2025. The petitioner was accordingly informed on 28.11.2025 through the Jail Authorities.

49. The crime committed by the petitioner led to a breakdown of public order. The impugned order was correctly passed, after considering the facts of the case and has its foundation in subjective satisfaction by the deponent, based on objective facts and the relevant and applicable law.

50. The petitioner has long history of criminal cases, according to the records of D.C.R.B., Sambhal, which are being given below :-

" (i) Case Crime No. 210 of 2003, under Section 3/4 Gambling Act, Police Station- Kotwali Sambhal, District- Sambhal.

(ii) Case Crime No. 385 of 2009, under Section- 323, 504 IPC, Police Station- Nakhasa, District- Sambhal.

(iii) Case Crime No. 277 of 2013, under Sections- 147, 148, 149, 307, 336, 427, 504, 506 IPC, Police Station- Nakhasa, District- Sambhal.

(iv) Case Crime No. 591 of 2014, under Sections- 147, 148, 149, 307, 336, 504, 506 IPC, Police Station- Kotwali Sambhal, District- Sambhal.

(v) Case Crime No. 169 of 2017 under sections 120B, 147, 148, 149, 307, 332, 336, 353, 395, 427 I.P.C. and section 7 of CLA Act and section 3 Public Property Damage Prevention Act, Police Station Nakhasa, District Sambhal.

(vi) Case Crime No. 306 of 2024 under section 103(1), 61(2)A B.N.S. Police Station Nakhasa, District Sambhal.

(vii) Case Crime No. 333 of 2024 under sections 191(2), 191(3), 190, 115(2), 352, 221, 132, 121(1), 121(2), 109(1), 125, 223(b), 310(2), 311, 317(3) BN.S. and section 25(1-A)(1-AB) Arms Act, Police Station Kotwali Sambhal, District Sambhal.

(viii) Case Crime No. 337 of 2024 under sections 191(2), 191(3), 190, 109(1), 125(1), 125(2), 221, 132, 121(1), 121(2), 324(4), 223 (b), 326 (c), BNS, section 7 of Criminal Law Amendment Act and section 3/4 Public Property Damage revention Act, Police Station Kotwali Sambhal, District Sambhal.

(ix) Case Crime No. 338 of 2024 under sections 103(1), 61(2)A B.N.S., Police Station Sambhal, District Sambhal.

(x) Case Crime No. 339 of 2024 under sections 125, 103(1) B.N.S. Police Station Kotwali Sambhal, District Sambhal.

(xi) Case Crime No. 340 of 2024 under section 103(1) BNS and section 3/25/27 Arms Act, Kotwali Police Station Sambhal, District Sambhal. "

51. A counter affidavit has also been filed on behalf of respondent no. 2, Principal Secretary, Home, Civil Secretariat, Lucknow on the same lines as the counter affidavit filed by respondent no. 3. It has also been stated that advisory board heard the petitioner and thereafter submitted its report to the state government with endorsement that there exists sufficient grounds for preventive detention of petitioner under National Security Act by its order dated 15.12.2025.

52. Before considering the rival submissions a look at the basic law of the land is required. The Constitution of India guarantees the right to life and liberty while also providing specific safeguards against arrest and detention. However, in the same chapter on fundamental rights, the Constitution contains Article 22 (3) to (7) which explicitly authorize preventive detention:

"(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the

place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply— [...] (b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless— (a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention: Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or (b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe— (a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4); (b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and (c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)."

53. A few months after the Indian Constitution came into effect in 1950, Article 22 of the Constitution was challenged in the Supreme Court, resulting in the now landmark judgment **A.K. Gopalan v. State of Madras, 1950 AIR 27**. In this decision, the Supreme Court found certain provisions of the Preventive Detention Act to be violative of the Constitution but stopped short of striking down the constitutional provision allowing preventive detention, noting that there would be circumstances that would necessitate this form of detention.

54. Central to the Court's reasoning was that Article 22 has inbuilt safeguards that, if followed, will ensure that preventive detention does not amount to an arbitrary deprivation of life and liberty. The Court also

distinguished the rights of an accused in case of arrest and the rights of a detainee in cases of preventive detention. It is also noteworthy that this judgment recognised that while preventive detention may be permitted under Article 22 of the Constitution, the use of preventive detention in a manner that undermined the right to freedom of speech and expression, the right to peaceful assembly, the prohibition of torture, or the right to freedom of religion, would render it unconstitutional.

55. This was reiterated in ***Mallada K. Sri Ram vs. State of Telangana 2022 LiveLaw (SC) 358*** when the Supreme Court emphasized the need to exercise preventive detention powers under Article 22 of the Constitution only within constitutionally mandated safeguards, without which it becomes draconian:

"The powers of preventive detention are exceptional and even draconian. Tracing their origin to the colonial era, they have been continued with strict constitutional safeguards against abuse. Article 22 of the Constitution was specifically inserted and extensively debated in the Constituent Assembly to ensure that the exceptional powers of preventive detention do not devolve into a draconian and arbitrary exercise of state authority."

56. Even though on the face of it, this provision is couched in safeguards and restrictions on the power of preventive detention, a closer reading shows that each of these safeguards in turn allow for exceptions or departures. For instance, the safeguard that preventive detention ought to be authorized for only three months, is subject to an exception which allows this period to be extended by an advisory board, subject only to a maximum period as specified by law made by parliament. This effectively allows parliament to make a law allowing for indefinite preventive detention.

57. The Constitution also requires that the detainee be informed of the grounds of detention and be given an opportunity to make a representation against the order of detention "as soon as may be" and "at the earliest opportunity", however, without providing any fixed timeline. This requirement is subject to an exception, allowing grounds to be withheld if the detaining authority is of the opinion that disclosure is against public interest.

58. The Constitution provides for remedies for preventive detention which include judicial reviews of the procedure followed by the authority issuing detention orders¹² and habeas corpus challenging the legality of the order itself. These are discussed in more detail below.

59. Article 22 of the Constitution allows the adoption of legislation at Union and State level on preventive detention. The power to frame such laws is vested with the Parliament as well as State Legislatures, with the Parliament having exclusive powers to enact a law for preventive detention for "reasons

connected with Defence, Foreign Affairs, or the security of India ", and both Parliament and the State legislature being empowered to enact laws "for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community".

60. The Supreme Court in the case of ***Dr. Ram Manohar Lohia vs. State of Bihar 1966 AIR 740*** is landmark judgment laying down the scope of public order and security of state, both grounds for preventive detention, the Supreme Court held:

"Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order, but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. [...]"

61. It will thus appear that just as 'public order' in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting 'security of State', 'law and order' also comprehends disorders of less gravity than those affecting 'public order'. One must imagine three concentric circles. Law and order represent the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State."

62. This was confirmed again in judgment of ***Ameena Begum vs. State of Telangana, 2022 SCC OnLine SC 424***, where the Supreme Court reiterated that a mere "breach of law in all cases does not lead to public disorder." The Supreme Court reiterated that:

"Differentiation between maintenance of 'public order' and offenses that create a 'law and order' situation - For an act to qualify as a disturbance to 'public order', the activity must impact the general public and evoked feelings of fear, panic, or insecurity. Stray acts affecting private individuals, and the repetition of similar such acts would not tend to affect the even flow of public life. [...] Preventive detention laws are an 'exceptional measure reserved for tackling emergent situations' and must not be used as a tool for enforcing 'law and order'. [...] When ordinary provisions of criminal law would have sufficed to deal with the detenu, there was no reason for the state to invoke the provisions of the preventive detention act, being an extraordinary statute."

63. The Supreme Court's interpretation of public order and security of the State is binding and has the effect of law. However, as is evident, there is no codified definition for the range of acts that are considered threatening to "public order" and "national security", or what supports the inference that an individual is likely to commit such acts. Despite seeking to distinguish between law and order and public order, the Supreme Court has also been unable to provide clear and consistent explanations for these concepts, resorting instead to vague formulations and an emphasis on making determinations "on a case-by-case basis".

64. Whether an act qualifies as a ground of detention is the subject to the satisfaction of the detaining authority. No parameters are provided by the NSA as to what facts, evidence or circumstances are required for the detaining authority to be "satisfied" that detention is required to prevent a person from acting in the proscribed manners. According to the Supreme Court, the logic is that preventive detention by its very nature can be based only on suspicion or apprehension and not on proof, hence no objective parameters can be laid down: "Since every preventive measure is based on the principle that a person should be prevented from doing some thing which, if left free and unfettered, it is reasonably probable he would do, it must necessarily proceed in all cases, to some extent, on suspicion or anticipation as distinct from proof." In practice, this confers wide discretion on the executive.

65. The Supreme Court has clarified that the satisfaction of the detaining authority is subjective in nature. The detaining authority's power can be exercised on its "subjective satisfaction" that detention is necessary to prevent a person from acting in a manner prejudicial to the grounds set out in the NSA.

66. The ambit of these discretionary powers have been set out by the Supreme Court only to the extent of saying that, the detention order should point to the existence of relevant material: "We are aware that the satisfaction of the District Magistrate is subjective in nature, but even subjective satisfaction must be based upon some pertinent material." Further, this material has to be "relevant to the formation of the satisfaction" and have "rational nexus to the formation of the satisfaction".

67. The Supreme Court found that the subjective satisfaction must be twofold: First, satisfaction that the person to be detained is likely to act in a manner prejudicial to the security of the State or to the maintenance of public order; and second, satisfaction that it is necessary to detain the person to prevent them from acting thus. The subjective satisfaction of the detaining authority is implied when the order is issued, but the order of detention would be invalidated if one of the grounds or reasons on which the subjective satisfaction is based is "non-existent or misconceived or

irrelevant. The court will normally only review the decision-making process and application of mind by the detaining authority, rather than the correctness of the decision itself. The Supreme Court clarified that the judicial review undertaken is "not an appeal" but rather a "review of the manner in which the decision is made.

68. The purpose of the Advisory Board is (1) to review whether "there is sufficient cause for the detention of the person concerned" and (2) to give the person concerned an opportunity to be heard. The Advisory Board has a right to examine all materials on which the detention order is based, and has the power to summon additional material. It can also examine any official who may be relevant in determining whether the detention is necessary.

69. It must be pointed out that while the Advisory Board consists of judicial members, it does not exercise judicial functions in reviewing the detention. It can only review the way the order has been issued and cannot give a finding on the necessity of the detention or accuracy of material on which the order has been passed.

70. The Advisory Board at the conclusion of the process, issues a report, containing its opinion as to whether there exists sufficient cause for the detention of the person concerned. Based on this opinion, the State Government confirms the detention order. If the Advisory Board finds there does not exist sufficient cause for detention, the State Government will not confirm the order, and the detention lapses as of that day. Thus, the detention order is "confirmed" or "revoked" by the government based on the opinion of the Advisory Board. There is no public data available on the number of cases brought before the Advisory Board nor are its decisions made public.

71. As set out above, a judicial review of a detention order under the NSA can only examine procedural compliance and a substantive review is not permissible. The settled position under Indian law is that considering that preventive detention is an exercise of administrative power, the judiciary can only review the decision-making process and application of mind by the detaining authority, rather than the correctness of the decision itself. The Supreme Court clarified that the judicial review undertaken is "not an appeal" but rather a "review of the manner in which the decision is made". Consequently, the detainee has the right to challenge their detention only on grounds that this power has been exercised without following the prescribed procedure, or without application of mind, or it has been exercised dishonestly or with improper motive, or that it has been exercised without authority of law, or illegally.

72. If the detention order is challenged through a writ of habeas corpus, the detaining authority has to satisfy the court that the detention is legal and in conformity with the mandatory provisions of law authorizing such detention.

Imperfect pleadings in a habeas corpus petition would not stand in the way of granting relief to which a detainee is entitled. It is enough for the detainee to say that s/he is under wrongful detention, and the burden lies on the detaining authority to satisfy the court that the detention of the petitioner-detainee was legal and not only in conformity with the mandatory provisions of the NSA but also strictly in accordance with constitutional safeguards.

73. The Supreme Court and High Courts have quashed detention orders under the NSA due to reasons such as failure to supply relevant materials upon which the detention order was made, " non-application of mind and improper exercise of jurisdiction ", procedural issues including non-provision of relevant documents, and delay in presenting the detainee's petition report before the advisory board.

74. In the present case, we find that the impugned detention order dated 13.10.2025 is based on application of mind and proper exercise of jurisdiction by the respondent no. 3. It has been held in the detention order that the detention of the petitioner is necessary to prevent him from committing acts against the public order and therefore his detention is necessary. The subjective satisfaction recorded by the respondent no. 3 appears to be justified and cannot be questioned before the Court. It does not show any non-application of mind. In support of the impugned detention order, 22 documents were provided to the petitioner which have been received and admitted by the petitioner in paragraph 4 of the writ petition, therefore, it is not the case of the petitioner that the material forming the basis of the detention order was not supplied to him and that the detention order is unreasoned.

75. In the counter affidavit filed by learned A.G.A., it is clear that widespread violence was caused by the petitioner (detenu) and other persons in the alleged incident. Number of policemen were injured. Large number of incriminating weapons were recovered, number of police vehicles were put to fire by the crowd whereof the detenu was also a member. Material has been collected by respondent no. 3 proving that the petitioner (detenu) was involved in the instigating the crowd to indulge in mob violence and arson. This situation created by the petitioner (detenu) and his other companions led to breakdown of public order. The atmosphere of fear was created in the minds of public. The police has tuff time controlling the situation created by the petitioner (detenu) and other accused. The act of petitioner (detenu) disturbed the society and the community as well. It affected the even tempo of life because of repercussion of his act and it created fear in the large section of the other communities. It was not just law and order situation created by the petitioner (detenu) rather it was an act which jeopardized the public order.

76. The point has been elucidated in *Arun Ghosh v. State of West Bengal*,

1970 (1) SCC 98, where the concept of 'public order' has been elucidated by their Lordships of the Supreme Court in the following words:

"3. The submission of the counsel is that these are stray acts directed against individuals and are not subversive of public order and therefore the detention on the ostensible ground of preventing him from acting in a manner prejudicial to public order was not justified. In support of this submission reference is made to three cases of this Court: Dr. Ram Manohar Lohia v. State of Bihar, Pushkar Mukherjee and Others v. State of West Bengal and Shyamal Chakraborty v. The Commissioner of Police, Calcutta and Another. In Dr. Ram Manohar Lohia's case this Court pointed out the difference between maintenance of law and order and its disturbance and the maintenance of public order and its disturbance. Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its affect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. Take instance, a man stabs another. People may be shocked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal tension. A man stabs a of a very different sort. Its implications are deeper and it affects the even tempo of life and public order is jeopardized because the repercussions of sis an act the act embrace large sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Take the case of assault on girls. A guest at a hotel may kiss or make advances to half a dozen chamber maids. He may annoy them and also the management but he does not cause disturbance public order. He may even fracas with the friends of one of the girls but even then it would be a case of breach of law and order only. Take another case of a man who molests women in lonely places. As a result of his activities and schools are in constant danger and fear. Women going for their ordinary business are afraid of being waylaid and assaulted. The activity of this man in its essential quality is not different from the act of the other man but in its potentiality and in its affect upon the public tranquillity there is a vast difference. ice. The act of the man who molests the girls in lonely places causes a disturbance in the even tempo of living which is the first requirement of public order. He disturbs the society and the community. His act makes all the women apprehensive of their honour and he can be said to be causing disturbance of public order and not merely committing individual actions which may be taken note of by the criminal prosecution agencies. It means therefore that the question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society. The French distinguish law and order and public order by designating the latter as order publique. The latter expression has been recognised as meaning something more than ordinary maintenance of law and order. Justice Ramaswami in Writ

Petition No. 179 of 1968 drew a line of demarcation between the serious and aggravated forms of breaches of public order which affect the community or endanger the public interest at large from minor breaches of peace which do not affect the public at large. He drew an analogy between public and private crimes. The analogy is useful but not to be pushed too far. A large number of acts directed against persons or individuals may total up into a breach of public order. In Dr. Ram Manohar Lohia's case examples were given by Sarkar and Hidayatullah, JJ. They show how similar acts in different contexts affect differently law and order on the one hand and public order on the other. It is always a question of degree of the harm and its affect upon the community. The question to ask is Does it lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed? This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another."

77. In this regard, reference may be made to the ***State of U.P and another v. Sanjai Pratap Gupta alias Pappu and others, (2004) 8 SCC 591***. In Sanjai Pratap Gupta alias Pappu (supra), it has been held:

"14. The stand that a single act cannot be considered sufficient for holding that public order was affected is clearly without substance. It is not the number of acts that matters. What has to be seen is the effect of the act on the even tempo of life, the extent of its reach upon society and its impact."

78. In ***Nenavath Bujji v State of Telangana, 2024 SCC OnLine SC 367***, it has been held:

43. We summarize our conclusions as under: -

- (i) *The detaining authority should take into consideration only relevant and vital material to arrive at the requisite subjective satisfaction,*
- (ii) *It is an unwritten law, constitutional and administrative, that wherever a decision-making function is entrusted to the subjective satisfaction of the statutory functionary, there is an implicit duty to apply his mind to the pertinent and proximate matters and eschew those which are irrelevant & remote,*
- (iii) *There can be no dispute about the settled proposition that the detention order requires subjective satisfaction of the detaining authority which, ordinarily, cannot be questioned by the court for insufficiency of material. Nonetheless, if the detaining authority does not consider relevant circumstances or considers wholly unnecessary. immaterial and irrelevant circumstances, then such subjective satisfaction would be vitiated,*
- (iv) *In quashing the order of detention, the Court does not sit in judgment over the correctness of the subjective satisfaction. The anxiety of the Court should be to ascertain as to whether the decision-making process for reaching the subjective satisfaction is based on objective facts or influenced by any caprice, malice or irrelevant considerations or non-application of mind,*

(v) *While making a detention order, the authority should arrive at a proper satisfaction which should be reflected clearly, and in categorical terms, in the order of detention.*

(vi) *The satisfaction cannot be inferred by mere statement in the order that "it was necessary to prevent the detenu from acting in a manner prejudicial to the maintenance of public order". Rather the detaining authority will have to justify the detention order from the material that existed before him and the process of considering the said material should be reflected in the order of detention while expressing its satisfaction.*

(vii) *Inability on the part of the state's police machinery to tackle the law and order situation should not be an excuse to invoke the Jurisdiction of preventive detention,*

(viii) *Justification for such an order should exist in the ground(s) furnished to the detenu to reinforce the order of detention. It cannot be explained by reason(s) / grounds(s) not furnished to the detenu. The decision of the authority must be the natural culmination of the application of mind to the relevant and material facts available on the record, and*

(ix) *To arrive at a proper satisfaction warranting an order of preventive detention, the detaining authority must, first examine the material adduced against the prospective detenu to satisfy itself whether his conduct or antecedent(s) reflect that he has been acting in a manner prejudicial to the maintenance of public order and, second, if the aforesaid satisfaction is arrived at, it must further consider whether it is likely that the said person would act in a manner prejudicial to the public order in near future unless he is prevented from doing so by passing an order of detention. For passing a detention order based on subjective satisfaction, the answer of the aforesaid aspects and points must be against the prospective detenu. The absence of application of mind to the pertinent and proximate material and vital matters would show lack of statutory satisfaction on the part of the detaining authority."*

79. Upon a scrutiny of the grounds of detention of petitioner, the detention order, impugned in this petition, rests on sound reasoning. There is due application of mind by the detaining Authority as well as the State Government to come to a subjective satisfaction that the petitioner was required to be detained under the NSA. The grounds of detention are well informed, where details of acts and the resulting facts which showed violation of public order, have been copiously noticed by the detaining Authority. The way the even tempo of life was affected, has been cited with definitive instances in the grounds of detention. The possibility of the detenu repeating acts that may lead to further violation of public order have also been recorded. The subjective satisfaction, in that regard also, is founded on valid and objective material.

80. It is not for this Court to gauge the sufficiency of reasons that made the detaining Authority act under the NSA. We are not a Court of appeal to look into the sufficiency of material or its authenticity, unless it be glaringly absurd and come to a conclusion contrary to that of the Detaining Authority.

81. In the result, we do not find merit in this habeas corpus writ petition. It is, hereby, ***dismissed***.

(Vinai Kumar Dwivedi,J.) (Siddharth,J.)

June 8, 2026
Rohit