



2026:AHC:126147-DB

Order Reserved On:-25.05.2026.

Order Delivered On:-08.06.2026.

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 206 of 2026

Radhaballabh

.....Petitioner(s)

Versus

The Union Of India And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Tarun Pratap Singh
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 Hon'ble Siddharth,J.)

1. Heard Mr. Tarun Pratap Singh, learned counsel for the petitioner; Mr. Manish Goyal, learned Additional Advocate General assisted by Mr. Arvind Kumar, learned counsel for respondent nos. 3 and 4; Mr. Shiv Kumar Pal, learned Deputy Solicitor General of India assisted by Mr. Kuldeep Singh, learned counsel appearing for respondent nos. 1 and 2. We have also perused the pleadings of the parties on record and record of State Government produced before us.

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

ii."Issue a Writ of Habeas Corpus commanding all the respondents to release the petitioner from their illegal detention in pursuance of the detention order dated 14.10.2025 (ANNEXURE NO. 1) passed by respondent no. 3 under Section 3(1) of the PITNDPS Act, 1988 and to set the petitioner at liberty forthwith, and may further be pleased to quash the impugned order dater 14.10.2025 passed by the respondent no. 3 of the writ petition.

ii. And/or, any other Writ, order or direction as may deem fit and proper in the facts and circumstances;"

3. The brief fact of the case is that on 02.09.2011, an alleged 'secret' specific information was received by Shri Ram Avtar Sharma, Sub-inspector, P.S.-Govardhan, Mathura, that in front of Girraj Hospital, in the line of aata Chakki, Radhakund a Honda City car bearing no. UP85Q0133 is parked which is alleged to have 150 kg. ganja, on reaching the spot the police personnel asked the driver co-accused, Shyam Sundar, about the contraband who stated that the recovered ganja belongs to the

petitioner and the driver is going to keep it in his house. On the basis of the aforesaid information an F.I.R./Crime No. 510 of 2011, under section 8/20 of N.D.P.S. Act Police Station-Goverdhan, District- Mathura, was registered against the petitioner.

4. The petitioner was granted bail in the aforesaid case by this Hon'ble High Court on 07.08.2013.

5. On 11.11.2011, the petitioner was apprehended in a Maruti Zen Car bearing no. UP80U0080, from which 42.500 kg ganja and 500 grams charas was recovered, the petitioner was arrested from the spot and case crime no. 642 of 2011 under sections 8/20/18 of N.D.P.S. Act., Police Station- Goverdhan, District- Mathura, was registered against the petitioner.

6. The petitioner was granted bail by this Hon'ble High Court in the aforesaid case on 25.09.2013.

7. Thereafter, on 12.07.2020, the petitioner was apprehended in a Swift Dezire Car bearing no. HR51AT9609, from which 30 kg ganja was recovered, the petitioner was arrested from the spot and a case crime no. 219 of 2020, under sections 8/20 of N.D.P.S. Act., Police Station -Goverdhan, District- Mathura, was registered against the petitioner.

8. The petitioner was granted bail in the aforesaid case by this Hon'ble High Court on 02.09.2020.

9. After 5 years on 28.03.2025, the petitioner on the secret information was arrested near Ishaan Engineering College Along With XUV Car bearing no. HR51BG2818 containing 26 kg Ganja. and case Crime No. 112 of 2025 under Sections 8/20/29/60 of N.D.P.S. Act. Police Station Farah, District-Mathura was registered against the petitioner. It is further submitted that the police caught the petitioner along with co-accused person while co-accused person was transferring Ganja packets from the Truck no. RJ11GA7971 to two vehicle, and when the police reached the spot they found 13 Packets of 2 kg which 26 kg in one vehicle, 11 packets of 2 kg which is 44 kg in other vehicle and in the cabin of the truck 26 packet 2 kg which 52 kg & 10 packets 4 kg which is 40 kg, all together the quantity of alleged ganja was 140 kg which was recovered.

10. The petitioner was granted bail in the aforesaid case by this Hon'ble High Court on 09.01.2026.

11. On the basis of proposals made by Inspector, ANTF, Deputy Superintendent Operational Unit, Agra Zone Agra and D.S.P. ATNF, Senior Superintendent of Police, Mathura, forwarded the proposals to the Commissioner, Agra, and he forwarded the same to the District Magistrate and District Magistrate forwarded the same to the Principal Secretary, Home Ministry, Government of U.P., Lucknow and on

14.10.2025, the impugned detention order was passed by respondent no.3(Principal Secretary Home Department, Government of U.P.).

12. The aforesaid detention order was served on the petitioner in jail 16.10.2025 along with grounds and a list of documents relied upon.

13. Learned counsel for petitioner submitted that after the serving of the impugned detention order 14.10.2025, the petitioner was taken before the Advisory board, Lucknow Bench High Court Campus in which he was not given proper opportunity of hearing and he was only asked whether he is engaged in the business of illicit traffic of Narcotic Drugs or not and nothing else. On 15.11.2025, the petitioner being in jail still the petitioner managed to give representation before the respondent Authority, which was rejected vide order dated 11.12.2025. It is relevant to state that vide order 6.02.2025 rejection of the petitioner's representation was communicated to the petitioner and the representation of the petitioner was rejected in delayed manner and without following the principle of natural justice. It is submitted that vide order dated 26.12.2025, respondent no. 3 preposterously and casually passed an order confirming the detention order of the petitioner without properly considering the representation of the petitioner and without giving any specific grounds in regard to the confirmation of the detention order.

14. He further petitioner submits that as per catena of Judgment of the Apex court as well as the High Court, there should be a "*LINK AND PPROXIMATE LINK*" between the grounds of detentions and avowed purpose of detention but in the present case only the previous criminal antecedents of the petitioner were made the grounds but there is no cogent material on record which can show that the petitioner will indulge in the same kind of activities if he is released from jail. It is important to state that even the case on which basis the detention order has been passed is 2 cases of 2011, 1 case of 2020 and 1 case of 2025. It is further submitted that in all the cases the petitioner has been bailed out by this Hon'ble court and the state authority could have followed the process of Bail Cancellation instead of passing the strict impugned detention order. Except lodging of four criminal cases under NDPS Act, there is no material in existence to demonstrate that there is any event or even a possibility of any occasion for the petitioner to get himself Indulge into the illicit trafficking of narcotic drugs and psychotropic substance. Hence, the alleged subjective satisfaction of the detaining authority is not only misconceived but is also without any foundation in that regard. The impugned order of preventive detention dated 14.10.2025 under section 3(1) of "PITNDPS Act" in a wholly cryptic and mechanical manner, by describing few alleged same insufficient and frivolous grounds of detention on a separate sheet. The urgency of detention of any person under the provisions of PITNDPS Act, 1988 is first and foremost requirement in order to apply the stringent provisions of preventive dentation, however in the present case, the respondent authorities have not disclosed as to what was the urgency to detain the petitioner in the garb of impugned order as

the petitioner was already in jail. This eventuality itself renders entire procedure illegal, arbitrary and unjust and in violation of fundamental rights of the petitioner. Thee respondent no. 3 rejected the representation of the petitioner vide order dated 11.12.2025 in a wholly perverse and Illegal manner. As per the information received by the petitioner; there has been considerable delay at every step by every authority in the matter of imposing PITNDPS upon the petitioner.

15. It has been further submitted that the order dated 14.10.2025 issued by respondent no. 3 is based on the vague grounds which were framed in cryptic manner, without considering full facts and material of the subject matter as well as the issues involved in the case in hand and without taking any cogent independent materials. As such, the preventive detention is liable to be held illegal. The petitioner is innocent and has not committed any offence as given in the grounds of detention, but even though if for the sake of arguments only, it is taken to be true though it is specifically and emphatically denied, the whole matter is related to the 4 specific incidents alleged to have occurred and there is no reason to opine/conclude petitioner is in habit of indulging into illicit trafficking of narcotic drugs. Hon'ble Supreme Court as well as this Hon'ble Court have ruled that order of preventive detention under PITNDPS Act can be passed against a person when there is cogent material and reason for making subjective satisfaction about his repetitive tendency or inclination towards the crime related to NDPS Act, but there was no material before the detaining authority to make his subjective satisfaction that the petitioner is likely to involve again in the illicit trafficking of narcotic drugs. It is also a settled view that the order under the preventive detention law cannot be passed to circumvent the proceedings of criminal trial. The grounds of detention are vague and based upon extraneous material, which demonstrate colorable and causal exercise of authority by the respondents and there is no threat to public peace and order if the petitioner is set at liberty. Mandatory provisions of the Act and procedural safeguards have been completely ignored and over looked in the instant case. The grounds of detention are nothing but mechanical repetition of the report of sponsoring authority.

16. A counter-affidavit has been filed on behalf of detaining authority/respondent no.3 and submitted that the detenue/accused, namely, Radha Ballabh Chaudhary, son of Late Girraj Singh, resident of Malipada, Tanki Gali, Radhakund, Police Station-Govardhan, District-Mathura, was lawfully remanded to judicial custody and consequently confined in District Jail. Mathura, on 03.06.2025, pursuant to a duly passed and valid order of remand issued by the Court of the learned Special Judge (NDPS Act)/Additional District & Sessions Judge-07, Mathura, in Case No. 112 of 2025, arising out of Case Crime registered under Sections 8/20/29/60 of the NDPS Act at Police Station-Faral. District-Mathura. The order of preventive detention passed under the provisions of the PIT-NDPS Act, 1988, along with the grounds of detention and all connected and relied-upon documents, duly issued by the Secretary, Home Department, Government of Uttar Pradesh, vide Letter No. 684/15/2025-CX-5

(PIT-NDPS) dated 14.10.2025. In compliance with the Government Order No. 684/15/2025-CX-5 (PIT-NDPS) dated 14.10.2025 issued under Section 3(1) of the PIT-NDPS Act, 1988, the detention order along with the grounds of detention and all supporting documents were duly served upon the detenu, Radhaballabh Chaudhary, son of Late Giriraj Singh, currently lodged in District Jail, Mathura. The service was effected on 15.10.2025, where the contents of the detention order and the grounds thereof were read over and explained to the detenu in a language understood by him. A formal acknowledgment was obtained, and the detenu was duly informed of his right to make a representation to the competent authorities against the said detention. Furthermore, in accordance with the statutory mandates, written intimation regarding the detention was personally served upon the detenu's son, Shri Vivek, by the Inspector, A.N.T.F. Unit, Agra, and a signed receipt of the same was obtained, thereby ensuring full procedural compliance as communicated by the District Magistrate, Mathura, vide letter no. 2031(1)/J.E./2025 dated 17.10.2025. In further compliance with the statutory provisions of the PIT-NDPS Act, 1988 and the prescribed procedure, intimation regarding the service of the detention order upon the aforesaid detenu was duly communicated through Radiogram No. 1675-1577/PIT-NDPS/MTA/2025 dated 15.10.2025 to the competent authorities, namely: (i) the Ministry of Home Affairs, Government of India, New Delhi; (ii) the Home Department, Government of Uttar Pradesh, Lucknow; (iii) the Director General of Prisons, Uttar Pradesh, Lucknow; (iv) the Deputy Inspector General of Prisons, Agra Range, Agra; (v) the District Magistrate, Mathura; and (vi) the Senior Superintendent of Police, Mathura, ensuring prompt dissemination of information as required under law.

17. It is respectfully submitted that the Special Secretary, Home (Confidential) Section-5, Government of U.P., vide letter No. 861/83/2/15/2025-CX-5 dated 11.11.2025, forwarded the directions issued by the Senior Registrar, Advisory Council (Detentions), Hon'ble High Court, Allahabad (Lucknow Bench), vide letter No. 020/2025 dated 10.11.2025, whereby the Advisory Council fixed 15.11.2025 as the date of hearing in the aforesaid matter. Upon receipt of the aforesaid communications on 12.11.2025, the prison authorities promptly served the same upon the detainee, Radhavallabh Chaudhary (son of late Girraj Singh), in due compliance with the prescribed legal procedure. It is pertinent to submit here that in the aforesaid matter; the hearing could not take place on 15.11.2025 in view of the Bageshwar Dham Yatra in District Mathura. Subsequently, on the request of the District Magistrate, Mathura, the Hon'ble Advisory Board, vide its letter no. 021/2025 dated 03.12.2025, rescheduled the hearing for 11.12.2025. In this regard, the State Government, vide letter no. 927/83/2/15/2025 dated 04.12.2025, duly intimated the District Magistrate, Superintendent of Police, Jail Superintendent, and other concerned authorities. It is submitted that on November 15, 2025, the detenu, Radhavallabh Chaudhary (son of the late Girraj Singh), currently detained under the PIT-NDPS Act, 1988, presented a formal representation addressed to the Principal Secretary (Home Department, Govt.

of U.P.), the Hon'ble Advisory Board (Lucknow Bench), and the Secretary (PIT-NDPS Unit, Ministry of Finance, Govt. of India). Subsequently, the District Magistrate, Mathura, forwarded the representation along with detailed para-wise comments/report vide letter dated 03.12.2025, which was received by the Home Department of the State Government on 08.12.2025. Taking prompt action, the State Government, vide Home Department letter dated 09.12.2025, transmitted the said representation and report to the Hon'ble Advisory Board and the Government of India for their consideration and disposal. The petitioner's representation was examined at multiple levels within the State Government. The - concerned section, namely Home (Gopan) Anubhag-5, examined the representation on 09.12.2025. The Under Secretary also considered the matter on 09.12.2025. Thereafter, the Special Secretary examined the representation on 09.12.2025. Subsequently, the Secretary to the Government of Uttar Pradesh, Lucknow examined the same on 09.12.2025, and finally, the Principal Secretary, Home Department, Government of Uttar Pradesh, Lucknow examined it on 10.12.2025.

18. Thereafter, the file was placed before the competent authority for final orders. Upon due consideration, the representation of the petitioner was rejected by the State Government on 10.12.2025 and a formal order no. 939 (2)/15/2025-CX-5, dated 11.12.2025 was also issued. It is further stated that the rejection of the petitioner's representation was duly communicated to him through the district authorities 'by means of the State Government's radiogram dated 11.12.2025. From the facts stated hereinabove, it is evident that the petitioner's representation was considered and dealt with expeditiously at every stage by the State Government. Detainee, Radhavallabh Chaudhary, son of the late Girraj Singh, was produced for a hearing before the Hon'ble Uttar Pradesh Advisory Board (Detention), Hon'ble High Court Premises Bench, Lucknow, on 11.12.2025. After the hearing held on 11.12.2025, the report of the Hon'ble Advisory Board bearing no. P.S./74/2025 dated 19.12.2025 was received by the State Government on 22.12.2025, upon which, after due consideration, the Government issued a confirmation order for a period of one year vide order no. 971/15/2025-CX-5 (PIT-NDPS) dated 26.12.2025.

19. A short-counter affidavit has also been filed on behalf of respondent nos. 1 and 2 repeating almost the same procedural averments as given in the counter-affidavit of the respondent no.3.

20. 5. The Apex Court in the case of **Mortuza Hussain Choudhary Vs. State of Nagaland and others, 2025 SCC Online SC 502** has considered the scheme of P.I.T.N.D.P.S. Act from paragraph nos. 7 to 10 quoted herein below:-

"7. It would be apposite at this stage to take note of the statutory regime of the Act of 1988. Section 3(1) thereof empowers the authorized officers, either of the Central Government or of a State Government, to detain any person with a view to prevent him/her from engaging in illicit traffic in narcotic drugs and psychotropic substances.

Section 3(2) requires a State Government that passes such a detention order to forward a report of the same to the Central Government within ten days. Section 3(3) mandates communication of the grounds on which the detention order has been made to the detenu as soon as may be after the detention, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days from the date of detention. The sub-section records that this requirement is for the purposes of Article 22(5) of the Constitution, which mandates such communication as soon as may be. Section 6 of the Act of 1988 provides that the grounds of detention are severable and an order of detention shall not be deemed to be invalid or inoperative merely because one or some of the grounds is either found to be vague, nonexistent, irrelevant or not connected with such persons or is invalid for any other reason. Section 6 specifically records that where a person has been detained pursuant to an order of detention under Section 3(1), which has been made on two or more grounds, such order shall be deemed to have been made separately on each ground. This indicates that the order of detention must be accompanied by the 'grounds of detention' made by the detaining authority itself. Section 11 of the Act of 1988 speaks of the maximum period of detention and states that the same may be extended up to 2 (two) years from the date of detention.

8. We may now note precedential law on the subject. In **Kamarunnissa v. Union of India, (1991) 1 SCC 128** the detenus were already in judicial custody at the time the orders of preventive detention were passed against them. This Court affirmed that detention orders could be validly passed against detenus who were in jail, provided the officers passing the orders were alive to the factum of the detenus being in custody and there was material on record to justify the conclusion that they would indulge in similar activities, if set at liberty. Reference was made to the earlier decision of this Court in *Binod Singh v. District Magistrate, Dhanbad, Bihar*, (1986) 4 SCC 416 wherein it was held that there must be cogent material before the officer passing the detention order to infer that the detenu was likely to be released on bail and such an inference must be drawn from the material on record and must not be the ipse dixit of the officer passing such order. This Court, therefore, emphasized that before passing the detention order in respect of a person who is in jail, before passing the detention order in respect of a person who is in jail the concerned authority must satisfy himself and such satisfaction must be reached on the basis of cogent material that there is a real possibility of the detenu being released on bail and, further, if released on bail, the material on record must reveal that he/she would indulge in prejudicial activity again, if not detained.

9. On similar lines, in **Rekha v. State of Tamil Nadu, (2011) 5 SCC 244**, a 3-Judge Bench of this Court affirmed that, where a detention order is passed against a person already in jail, there should be a real possibility of the release of that person on bail, that is, he must have moved a bail application which is pending. It was observed that if no bail application is pending it logically followed that there is no likelihood of the

person in jail being released on bail. The Bench, however, pointed out that the exception to this Rule would be where a co-accused, whose case stood on the same footing, was granted bail. The Bench cautioned that details in this regard have to be recorded, otherwise the statement would be mere ipse dixit and cannot be relied upon. The law laid down in *Rekha (supra)* was reiterated and followed in **Huidrom Konungjao Singh v. State of Manipur, (2012) 7 SCC 181.**

10. Earlier, in **Union of India v. Paul Manickam, (2003) 8 SCC 342,** this Court observed that, where detention orders are passed against persons who are already in jail, the detaining authority should apply its mind and show awareness in the grounds of detention of the chances of release of such persons on bail. It was observed that the detaining authority must be reasonably satisfied, on the basis of cogent material, that there is a likelihood of the detenu's release and in view of his/her antecedent activities, which are proximate in point of time, he/she must be detained in order to prevent him/her from indulging in such prejudicial activities. It was held that an order of detention would be valid in such circumstances only if the authority passing the order is aware of the fact that the detenu is actually in custody; the authority has a reason to believe, on the basis of reliable material, that there is a real possibility of the detenu being released on bail; and that, upon such release, he/she would, in all probability, indulge in prejudicial activities; and it is felt essential to detain him/her to prevent him/her from so doing. This principle was again reiterated and applied in **Union of India v. Dimple Happy Dhakad, (2019), 20 SCC 609."**

21. The Apex Court in the case of **Kamarunnisa Vs. Union of India (supra)** has held that the detention orders can be passed against detainees in jail provided the officers passing such orders can justify the detention with reference to the material on record and can also justify that the detainees will indulge in similar activities, if set at liberty. In this case, we do not find any such 'satisfaction' recorded by the detaining officer that he was earlier implicated in near past. The last implication of the petitioner was in the year 2020. It was not proximate in point of time as held by Apex Court in **Paul Manickam(Supra).** The ratio of the judgments of the Apex Court in the cases of **Binod Singh Vs. District Magistrate (supra)** and **Rekha Vs. Tamil Nadu** (supra) are to the same effect. The Apex Court in the case of **Union of India Vs. Paul Manickam** (supra) has also held that the detaining authority should apply its mind and show awareness to the "grounds of detention". The detaining authority must be reasonably satisfied on the basis of cogent material, that there is likelihood of detainee of indulging in such activities on being released from jail. The "reasons to believe" should be based on reliable material and real possibility of detainee misusing his liberty in case of release from jail.

22. A perusal of the "grounds of arrest" of the petitioner shows that earlier, he was involved in three cases under provisions of NDPS Act twice in the year 2011, once in the year 2020 and now he has been implicated in case crime no. 112/25 and while in

jail he was detained in this case by impugned detention order. Subsequently, he was granted bail in the aforesaid case crime no. 112/25 on 09.01.2026.

23. This Court finds that from the detention order it does not appear that the detaining authority had anything against the petitioner except his criminal history of four cases under the NDPS Act. The Apex Court in the case of detention under the **National Security Act of Ameen Begum Vs. State of Telangana 2023 INSC 788** held that detenu's criminal antecedents or his habitualities of committing the offences cannot be sole basis of passing an order of preventive detention. Merely because detenu was charged for committing the multiple offences, it cannot be said that he was habitual of committing such offences.

24. Viewed in the above conspectus of facts and law, it is application of mind by Respondent No. 3 as to the requirement of preventive detention qua the Appellant. The entire intent appears to continue the detention of the Appellant since he was likely to get bail in the criminal case, which, in fact, he got. Such non-application of mind to the material facts and taking of extraneous factors into consideration has completely vitiated the order of preventive detention as well as the order rejecting the representation.

25. More than four decades ago, a three Judge Bench of this Court in **Vijay Narain Singh v. State of Bihar, MANU/SC/0135/1984: 1984:INSC:80: (1984) 3 SCC 14**, had sounded a note of caution that preventive detention is not intended for the purpose of keeping a man under detention when under regular criminal law, it may not be possible to resist bail. When a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinizing the validity of an order of preventive detention which is based on the very same charge to be tried by the competent criminal court.

26. Preventive detention of a person is a drastic measure. An order of preventive detention has the effect of invading a person's personal liberty. Therefore, the detaining authority should exercise utmost care and caution while invoking such a draconian provision.

27. Preventive detention being a hard law, it is axiomatic that an order of preventive detention should be strictly construed. It is the duty of a constitutional court like the High Court to minutely scrutinize an order of preventive detention to ensure that the order of preventive detention squarely falls within the four corners of the relevant law and that the liberty of a person is not unlawfully compromised.

28. In view of the above consideration, we are of the view that the order of preventive detention impugned in this petition is unwarranted under the facts and circumstances of this case and wholly untenable and liable to be set aside.

29. Accordingly, the preventive detention order dated 14.10.2025 passed by

respondent no.3 against the petitioner is hereby set aside.

30. The Habeas Corpus Writ Petition is **allowed**.

31. The petitioner is directed to be set free if not warranted in any other cases, within two days from the date of filing of certified copy of this order before the Special Court concerned.

32. Copy of this judgment shall be issued to petitioner by the office today.

June 8, 2026
Abhishek

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