

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (Cr.) (DB) No.662 of 2025

Bipin Bihari Singh @ Dipu Singh age about 30 Years S/O Hare Ram Singh
 R/O Village-Chakulia Swarna Rekha Colony, Chakulia Naya Bazar P.O.
 & P.S.- Chakulia District-East Singhbhum (Jharkhand).

..... Petitioner

Versus

1. The State of Jharkhand, through Secretary Department of Home, Government of Jharkhand having its office at Project Building, Dhurwa P.O.-Dhurwa, P.S.-Jagannathpur District-Ranchi (Jharkhand).
2. The Chief Secretary, Government of Jharkhand having its office at Project Building, Dhurwa P.O.-Dhurwa, P.S.-Jagannathpur District-Ranchi (Jharkhand).
3. Principal Secretary, Home, Prison and Disaster Management Department Government of Jharkhand having its office at Project Building, Dhurwa P.O.-Dhurwa, P.S.-Jagannathpur District-Ranchi (Jharkhand).
4. District Magistrate-Cum-Deputy Commissioner, East Singhbhum at Jamshedpur P.O. & P.S. Sakchi District-East Singhbhum Town-Jamshedpur (Jharkhand).
5. Senior Superintendent of Police, East Singhbhum at Jamshedpur P.O. & P.S. Sakchi District East Singhbhum Town-Jamshedpur (Jharkhand).
6. Sub-Divisional Police Officer, Ghatshila at Ghatshila P.O. & P.S. Ghatshila District East Singhbhum Town-Jamshedpur (Jharkhand).
7. Officer In-charge Chakulia Police Station at Chakulia P.O. & P.S. Chakulia District East Singhbhum Town-Jamshedpur (Jharkhand).
8. Jail Superintendent, Birsa Munda Central Jail, Hotwar, Ranchi, having its Office at Hotwar P.O.-Hotwar, P.S. Khelgaon District Ranchi (Jharkhand). Respondents

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Petitioner : Mr. Kripa Shankar Nanda, Advocate
 For the Resp.-State : Mr. Yogesh Modi, AC to AAG-IA

C.A.V on 08.12.2025

Pronounced on 06/01/2026

Per Sujit Narayan Prasad, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India seeking therein for the following relief:

"For issuance of an appropriate writ(S), order(S) or direction(S) or writ in the nature of certiorari for quashing of Order dated 30/07/2025, contained in Memo No.18/PITNDPS-09/2025-3087, Ranchi (Annexure-4) issued by the Respondent No.3 (Principal Secretary Home, Prison and Disaster Management Department Government of Jharkhand Ranchi) whereby and where under Respondent No.3, has been pleased to pass an order to arrest the petitioner and detained him in Birsa Munda Central Jail, Hotwar, Ranchi, under Provision of Section 3 (1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances, (PITNDPS) Act, 1988, as amended without assigning any reason and without specifying time of its enforcement and then further prayed before this Hon'ble court to direct Jail authority to release the petitioner forthwith as petitioner has already been granted bail in two other cases in which he was remanded."

Factual Matrix

2. The brief facts of the case, as per the pleadings made in the writ petition, needs to be referred herein, which reads as under:

- (i) It is the case of the petitioner that he was implicated in a case being Chakulia P.S. Case No. 35/2024 on 06/05/2024, registered for the offence under Sections 20 (b) (ii) (c)/22 (c), 25, 29 of NDPS Act, but subsequently coming to know about his involvement in the aforesaid case on the basis of confession of the apprehended accused, he surrendered before the trial court and subsequently he was granted bail by this Hon'ble Court in B.A. No. 10626 of 2024 on 17.12.2024.
- (ii) However, before he could be released from the bail, he was remanded in connection with Mandu (Kuju) P.S. Case No.161/2022, registered for the offence under Sections 414/34 of I.P.C. and under Sections 20 (b) (ii) (c)/22 (c), 25, 29 of NDPS Act, but subsequently he filed an application for

grant of bail before this Hon'ble Court in B.A. No.1877/2025 and bail was granted though the recovery was of commercial quantity.

- (iii) Then, on being granted bail in Mandu (Kuju) P.S. Case No.161/2022, the petitioner was released on 31st July, 2025 from the Ramgarh Jail and was in his hotel. In the meantime, the police officer of the Chakulia police Station came and arrested him and sent to Birsa Munda Central Jail, Hotwar, Ranchi, without informing that why he has been arrested.
- (iv) Subsequently, letter dated 30.07.2025, issued by the Respondent No.3, was served upon him inside the jail then he came to know that he has been detained under Section 3 (1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

3. Being aggrieved with the aforesaid order, the present petitioner approached this Court for quashing of the order dated 30.07.2025, as contained in Memo No.18/PITNDPS-09/2025-3087.

Submission on behalf of the writ petitioner:

4. Mr. Kripa Shankar Nanda, learned counsel appearing for the petitioner has taken the following grounds in assailing the impugned order: -

- i. It has been contended that the order dated 30.07.2025 passed by the Principal Secretary, Home, Prison and Disaster Management is not sustainable in the eye of law as it has been passed without any authority of law.

ii. It has been contended that from perusal of the entire records, it would be crystal clear that the petitioner has illegally been detained.

iii. It has been contended that officer-in-charge of Chakulia Police Station had made proposal for imposing Section 3(1) of the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, on 17.12.2024 to the Senior Superintendent of Police, East Singhbhum, and thereafter, after seven and half months, order for detention has been issued, when there is no adverse report against the petitioner after December, 2024 and petitioner was granted regular bail by the Court of law.

iv. The Chakulia Thana Senha No. 14, 16 and 12 dated 02.12.2024, 06.12.2024 and 09.12.2024, has got not any substance as these Sanhas have been registered to make out a case of preventive dentition.

v. It has further been contended that the preventive detention of the petitioner is also not sustainable in the eye of law in view of the fact that no explanation has been given by the respondent no.3., Principal Secretary, Home, Prison and Disaster Management Department as to how the preventive detention of the petitioner is necessary after seven and half months of the report when there is no adverse report against the petitioner.

vi. It has been contended that the unreasonable delay in passing the order of detention from the date of proposal of detention order, is arbitrary and illegal.

vii. It has further been contended that the impugned order gives absolutely no finding with respect to the present petitioner.

viii. Learned counsel has relied on the judgment of Hon'ble Apex court passed in case of ***Sushanta Kumar Banilk Vs. State of Tripura and Others*** reported in ***2022 SCC Online SC 1333*** and has submitted that in the case in hand also, the detaining authority has passed the detention order after unreasonable delay.

5. Learned counsel based upon the aforesaid grounds, has submitted that the impugned order, therefore, needs interference by this Court and as such, the same may be quashed.

Submission on behalf of the Respondent-State:

6. *Per contra*, Mr. Yogesh Modi, learned AC to AAG-IA appearing for the respondent-State has defended the impugned order by taking the following grounds:

i. It has been contended that the Senior Superintendent of Police, East Singhbhum vide letter no.1651/DCB dated 30.12.2024, sent a proposal to the Deputy Commissioner, East Singhbhum, for invoking the provision of Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

ii. It has been contended that the Deputy Commissioner, East Singhbhum vide Letter No. 28(A) dated 20.01. 2025 submitted a proposal to the Secretary, Department of Home, Prison and Disaster Management, Jharkhand for detention of the petitioner invoking the provision of Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

iii. On receipt of proposal of detention, reports on several points were sought by the Department of Home, Prison and Disaster Management, Jharkhand from Deputy Commissioner, East Singhbhum vide letter no. 409 dated 31.01.2025.

iv. The Deputy Commissioner, East Singhbhum, had sent the required report to Department of Home, Prison and Disaster Management, Jharkhand, vide letter no. 344(A) dated 24.05.2025, informing the all the criminal cases, custody status and possibility of getting involved in the smuggling activity on release on jail.

v. As such, the impugned order dated 30.07.2025 has been passed by the Principal Secretary, Home, Prison and Disaster Management Department, Government of Jharkhand, in exercise of power conferred under section 3(i) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

vi. On the basis of the said detention order dated 30.07.2025, petitioner was arrested on 22.08.2025 and detention order was served on 23.08.2025 and a copy of grounds of detention was served on 27.08.2025.

vii. Petitioner was produced before the Advisory Board on 16.09.2025 and after the opinion of the Advisory Board, the detention order dated 30.07.2025 has been confirmed and period of detention under section 11 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, has been fixed as one year, vide departmental order no.4324 dated 14.11.2025.

viii. It has been contended that the petitioner was involved in spreading network of illegal sell-purchase and smuggling of Narcotic substances like Ganja.

ix. It has further been contended that with the help of his associates, the petitioner is spreading the network for smuggling Ganja. He is a habitual smuggler of Ganja.

x. It has also been contended that there are three cases registered against the present petitioner under the NDPS Act, i.e., Chakuliya PS Case No.35 of 2024, Mandu (Kuju) PS Case No.161 of 2022 and Arwal P.S. (Bihar) Case No.51 of 2024.

xi. It has been contended that the present petitioner has acquired many immovable and movable property from illegal earning of Ganja Smuggling. People in town as well as village area are getting adversely affected from addition of Ganja and also in fear that their children may involve in illegal drug trade or get addicted.

xii. It has been contended that for the interest of society, he must remain in jail so that he cannot disturb public order in any manner. There is strong apprehension that if he is released, then he will again indulge in smuggling activity. His criminal conduct has already caused fear and anxiety amongst youth and children and his influence has adversely affected their physical health.

7. Learned State Counsel, based upon the aforesaid grounds, has submitted that the impugned order, thus, needs no interference and as such, the present writ petition is fit to be dismissed.

Analysis:

8. We have heard the learned counsel appearing for the parties and gone through the pleadings made in the writ petition and the counter-affidavit along with the relevant documents annexed therewith.
9. In the backdrop of the aforesaid factual aspects, the following issues require consideration herein: -
 - (i) Whether there is un-reasonable delay in passing the impugned order of detention dated 30.07.2025, though, the proposal was made in December, 2024?
 - (ii) Whether the grant of bail to the petitioner in some cases is ground for his release from the preventive detention passed under section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988?
10. But, before considering the said issues, the statutory provision as contained under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 with its object and intent needs to be referred herein.
11. The Narcotic Drugs and Psychotropic Substances Act, 1988 has been enacted keeping in view that in recent years, India has been facing a problem of transit traffic in illicit drugs. The spillover from such traffic has caused problems of abuse and addiction. This trend has created an illicit demand for drugs within the country which may result in the increase of illicit cultivation and manufacture of drugs. Although a number of legislative, administrative and other preventive measures, including the deterrent penal provisions in the Narcotic Drugs and

Psychotropic Substances, Act, 1985, have been taken by the Government, the transit traffic in illicit drugs had not been completely eliminated. It was, therefore, felt that a preventive detention law should be enacted with a view to effectively immobilising the traffickers. The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 provides for preventive detention in relation to smuggling of drugs and psychotropic substances, but it cannot be invoked to deal with persons engaged in illicit traffic of drugs and psychotropic substances within the country. It was, therefore, felt that a separate legislation should be enacted for preventive detention of persons engaged in any kind of illicit traffic in narcotic drugs and psychotropic substances.

12. The relevant provisions which require consideration, i.e., Sections 3, 6, 9 and 11 of the Act, 1988, which are necessary to be referred herein which read hereunder as:-

“3. Power to make orders detaining certain persons.-(I) The Central Government or a State Government, or any officer of the Central Government, not below the rank of a Joint Secretary to that Government, specially empowered for the purposes of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government, specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person (including a foreigner) that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary so to do, make an order directing that such person be detained.

(2) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government shall, within ten days, forward to the Central Government a report in respect of the order.

(3) For the purposes of clause (5) of Article 22 of the Constitution, the communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made 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.

6. Grounds of detention severable. -Where a person has been detained in pursuance of an order of detention under sub-section (1) of section 3 which has been made on two or more grounds,

such order of detention shall be deemed to have been made separately on each of such grounds and accordingly-

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are-

- (i) vague,
- (ii) non-existent,
- (iii) not relevant,
- (iv) not connected or not proximately connected with such person, or
- (v) invalid for any other reason whatsoever,

and it is not therefore possible to hold that the Government or officer making such order would have been satisfied as provided in sub-section (I) of section 3 with reference to the remaining ground or grounds and made the order of detention;

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said sub-section (I) after being satisfied as provided in that sub-section with reference to the remaining ground or grounds.

9. Advisory Boards.-For the purposes of sub-clause (a) of clause (4) and subclause (c) of clause (7) of article 22 of the Constitution,-

- (a) the Central Government' and each State Government shall, whenever necessary, constitute one or more Advisory Boards each of which shall consist of a Chairman and two other persons possessing the qualifications specified in sub-clause (a) of clause (4) of article 22 of the Constitution;
- (b) save as otherwise provided in section 10, the appropriate Government shall, within five weeks from the date of detention of a person under a detention order, make a reference in respect thereof to the Advisory Board constituted under clause (a) to enable the Advisory Board to make the report under sub-clause (a) of clause (4) of article 22 of the Constitution;
- (c) the Advisory Board to which a reference is made under clause (b) shall after considering the reference and the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from any person, called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard in person, after hearing him in person, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned;
- (d) when there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board;
- (e) a person against whom an order of detention has been made under this Act shall not be entitled to appear by any legal practitioner in any matter connected with the reference to the Advisory Board and the proceedings of the Advisory Board and its report, excepting that part of

the report in which the opinion of the Advisory Board is specified, shall be confidential;

(f) in every 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 and in every case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

11. Maximum period of detention.-The maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 do not apply and which has been confirmed under clause (f) of section 9 shall be one year from the date of detention, and the maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 apply and which has been confirmed under clause (f) of section 9, read with sub-section (2) of section 10, shall be two years from the date of detention:

Provided that nothing contained in this section shall affect the power of appropriate Government in either case to revoke or modify the detention order at any earlier time.”

13. It is evident from the scope that the Act, 1988 has been enacted since India has been facing a problem of transit traffic in illicit drugs. It was, therefore, felt that a preventive detention law should be enacted with a view to effectively immobilising the traffickers. The Central Government and the State Governments have been empowered to make orders of detention with respect to any person in respect of whom an order of detention is made under the Ordinance at any time before the 31st July, 1990 may be detained without obtaining the opinion of an Advisory Board for a period not exceeding one year from the date of his detention if the detaining authority is satisfied that such person is engaged, or is likely to engage, in illicit traffic in narcotic drugs and psychotropic substances in any area highly vulnerable to such illicit traffic.

14. The “Illicit Traffic” has been defined as under Section 2(e) of the Act, 1988 which reads hereunder as:-

“2. (e) "illicit traffic", in relation to narcotic drugs and psychotropic substances, means-

- (i) cultivating any coca plant or gathering any portion of coca plant;
- (ii) cultivating the opium poppy or any cannabis plant;
- (iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transhipment, of narcotic drugs or psychotropic substances;
- (iv) dealing in any activities in narcotic drugs or psychotropic substances other than those provided in sub-clauses (i) to (iii); or
- (v) handling or letting any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv), other than those permitted under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) or any rule or order made, or any condition of any licence, term or authorisation issued, thereunder and includes-
 - (1) financing, directly or indirectly, any of the aforementioned activities;
 - (2) abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and
 - (3) harbouring persons engaged in any of the aforementioned activities.”

15. Section 3 of the Act, 1988 provides power to make orders detaining certain persons, wherefrom, it is evident that the competent authority if satisfied, with respect to any person (including a foreigner) that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary so to do, make an order directing that such person be detained. But, for the purpose of clause (5) of Article 22 of the Constitution, the communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made 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.

16. Section 9 of the Act, 1988 provides constitution of an Advisory Board with an intent to achieve the purposes of sub-clause (a) of clause (4) and subclause (c) of clause (7) of article 22 of the Constitution of India with

the conferment of power upon the Advisory Board that if any reference has been made and the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from any person, called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard in person, after hearing him in person, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned.

17. The maximum period of detention has been provided under Section 11 of the Act, 1988 and as provided therein any person may be detained in pursuance of any detention order to which the provisions of section 10 do not apply and which has been confirmed under clause (f) of section 9 shall be one year from the date of detention, and the maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 apply and which has been confirmed under clause (f) of section 9, read with sub-section (2) of section 10, shall be two years from the date of detention.

18. The Hon'ble Apex Court has also taken into consideration the issue of detention and agreeing with the object of the preventive detention enactments, the law has been laid down that since the power to detain a person is snatching away the liberty as enshrined as a fundamental right under the Constitution and, as such, the said power is to be exercised with all care and circumspection so that there may not be any vice of malice or

the arbitrary exercise on the part of the State to snatch away the personal liberty of an individual.

19. It is for this reason also, specific reference has been made under Section 3(3) of the Act, 1988, wherein, Clause (5) of Article 22 of the Constitution of India has been referred, meaning thereby, the mandate of the Constitution as enshrined under Article 22 is mandatorily to be followed so as to not to subject any individual from the vice of arbitrariness for the purpose of snatching away the liberty of an individual. But, simultaneously it has also been held that if situation so warrants then the detention order can be passed but subject to fulfilment of all requirements as provided under Section 3, Section 6 and Section 8 of the Act, 1988, by taking care of that the period of detention does not exceed one year as provided under Section 11 of the Act, 1988 so as to make balance while snatching away the liberty of an individual, reference in this regard may be made to the judgment rendered by Hon'ble Apex Court in the case of ***Mortuza Hussain Choudhary Vs. State of Nagaland and Others reported in 2025 SCC Online SC 502***, wherein, at paragraph-2, the Hon'ble Apex Court has held as under:-

“2. Preventive detention is a draconian measure whereby a person who has not been tried and convicted under a penal law can be detained and confined for a determinate period of time so as to curtail that person's anticipated criminal activities. This extreme mechanism is, however, sanctioned by Article 22(3)(b) of the Constitution of India. Significantly, Article 22 also provides stringent norms to be adhered to while effecting preventive detention. Further, Article 22 speaks of the Parliament making law prescribing the conditions and modalities relating to preventive detention. The Act of 1988 is one such law which was promulgated by the Parliament authorizing preventive detention so as to curb illicit trafficking of narcotic drugs and psychotropic substances. Needless to state, as preventive detention deprives a person of his/her individual liberties by detaining him/her for a length of time without being tried and convicted of a criminal offence, the prescribed safeguards must be strictly observed to ensure due

compliance with constitutional and statutory norms and requirements.”

20. It is in the backdrop of the aforesaid statutory provision and judicial pronouncement of the Hon’ble Apex Court, the factual aspect of the present case is to be considered in order to consider the issue as formulated hereinabove.

Re : Issue No. I

21. The learned counsel for the petitioner has contended that the impugned order of detention dated 30.07.2025, passed by the Respondent No.3-Principal Secretary, Home, Prison and Disaster Management Department, Government of Jharkhand, there is unreasonable delay in passing the detention order as the proposal for detention was initiated vide memo no. 2429/2024 dated on 17.12.2024 by the officer-in-charge of Chakulia Police Station and hence, the impugned detention order has been passed after delay of seven and half months. Hence, the impugned preventive detention order dated 30.07.2025 and proposal report as contained in memo no. 2429/2024 dated 17.12.2024 has no close nexus and so, requires interference by this court.

22. Adverting to the factual aspect of the present case, it is the admitted case that the order of detention was passed on 30.07.2025.

23. We have perused the aforesaid detention order of the petitioner. The detention order of the petitioner was issued by the Respondent no.3 on 30.07.2025 and he was arrested on 22.08.2025, detention order was served on 23.08.2025 and a copy of ground of detention was served on 27.08.2025.

24. Thereafter, petitioner was produced before the Advisory Board on 16.09.2025 and after opinion by the Advisory Board, the impugned detention order dated 30.07.2025 was confirmed and the period of detention under section 11 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 has been fixed as one year, vide department order no. 4324 dated 14.11.2025.

25. To examine the issue of undue delay in passing the impugned detention order dated 30.07.2025, this court is going through the proposals of the respondents.

26. We find that before passing the impugned detention order dated 30.07.2025, firstly, proposal was sent by the officer-in-charge of Chakulia Police Station ,vide memo no. 2429/2024 dated 17.12.2024 to the Senior Superintendent of Police, East Singhbhum.

27. Thereafter, aforesaid proposal was forwarded by the Senior Superintendent of Police, East Singhbhum, to the Deputy Commissioner, East Singhbhum, vide letter no.1651/DCB dated 30.12.2024, for invoking the provisions of Section 3 of the Act, 1988 and then, proposal was forwarded by the Deputy Commissioner, East Singhbhum, to the Secretary, Department of Home, Prison and Disaster Management, Jharkhand, vide Letter No. 28(A) dated 20.01. 2025.

28. Thereafter, on receipt of proposal of detention by the Deputy Commissioner, East Singhbhum, reports on several points were sought by the Department of Home, Prison and Disaster Management, Jharkhand from Deputy Commissioner, East Singhbhum, vide letter no. 409 dated 31.01.2025.

29. Then, Deputy Commissioner, East Singhbhum, had sent the required report to Department of Home, Prison and Disaster Management, Jharkhand, vide letter no. 344(A) dated 24.05.2025(Annexure-C), informing all the criminal cases and custody status of the petitioner and possibility of getting involved in the smuggling activity on release from jail.

30. On perusal of letter no.344(A) dated 24.05.2025(Annexure-C), we find that the Deputy Commissioner, East Singhbhum in its report sent to Department of Home, Prison and Disaster Management, Jharkhand, Ranchi, has referred three cases, showing the involvement of the petitioner in the Narcotic Drugs and Psychotropic Substances Act:

1. Mandu (Kuju) P.S. Case No.161/2022 dated 18.07.2022 registered for the offence under Sections 414/34 of I.P.C. and under Sections 20 (b) (ii) (c)/22 (c), 25, 29 of NDPS Act
2. Arwal Police Station (Bihar) case no. 51/2024 dated 04.02.2024 under section 8/20 (b) (ii) (c)/22 (c), 25, 29 of NDPS Act
3. Chakulia P.S. Case No. 35/2024 dated 06.05.2024, registered for the offence under Sections 20 (b) (ii) (c)/22 (c), 25, 29 of NDPS Act.

31. Hence, on passing of the impugned detention order dated 30.07.2025 subsequent thereto, petitioner was immediately arrested on 22.08.2025.

32. Thus, it is apparent that procedure which is required for the detention as mandated under the Act, 1988 as well as under Article 22 of the Indian constitution, has been followed.

33. At this juncture, it is pertinent to discuss the Judgment of *Sushanta Kumar Banik(supra)* relied upon by the learned counsel for the petitioner.

34. On going through the aforesaid judgment, we find that in this case Hon'ble Apex Court has *inter alia* dealt with two issues, firstly delay in arresting the detenu after the passing the order of detention and secondly, delay in passing the order of detention from date of proposal.

35. In this case, Hon'ble Apex Court has laid down that unreasonable delay in proposal and passing of the order of detention, shall be satisfactorily explained. The relevant paragraph of the judgment is being quoted herein below:-

“21. It is manifestly clear from a conspectus of the above decisions of this Court, that the underlying principle is that if there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention order bad and invalid because the “live and proximate link” between the grounds of detention and the purpose of detention is snapped in arresting the detenu. A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case.”

(emphasis supplied)

36. Thus, from the aforesaid judgment, it is evident that if there is any delay in passing the detention order, then it should be satisfactorily explained and further, it has been observed by the Hon'ble Apex Court that “a question whether the delay is unreasonable and stands unexplained, depends on the facts and circumstances of each case.”

37. In the case in hand, the Deputy Commissioner, East Singhbhum, had forwarded the proposal to the Secretary, Department of Home, Prison and Disaster Management, Jharkhand, vide Letter No.28(A) dated 20.01.2025, but, on receipt of proposal of detention by the Deputy Commissioner, East Singhbhum, reports on several points were sought by

the Department of Home, Prison and Disaster Management, Jharkhand from Deputy Commissioner, East Singhbhum vide letter no. 409 dated 31.01.2025.

38. Then, the Deputy Commissioner, East Singhbhum, had sent the required report to Department of Home, Prison and Disaster Management, Jharkhand, vide letter no. 344(A) dated 24.05.2025(Annexure-C), informing all the criminal cases and custody status of the petitioner and possibility of getting involved in the smuggling activity if release from the jail.

39. Herein, it is pertinent to note that the subjective satisfaction of the detaining authority as the mandate of the Constitution as enshrined under Article 22 is mandatorily to be followed so as not to subject any individual from of the vice of arbitrariness for the purpose of snatching away the liberty of an individual.

40. The question of subjective satisfaction, assumes paramount satisfaction so far as the statutory mandate as provided under Section 3 and the very object of the Act, 1988 is concerned, wherein, the subjective satisfaction of the concerned authority is a primary condition for passing the detention order, meaning thereby, there must not be mechanical order.

41. The connotation of subjective satisfaction means that the authority, who is proposing to put a person in confinement, is to produce all relevant documents before the sanctioning authority for its consideration before taking any decision of snatching away the personal liberty. Subjective satisfaction, therefore, means the active application of mind and such active application of mind cannot be said

to be made applicable in absence of the relevant documents for which the person concerned is being detained by infringement of his fundamental right as enshrined under the Constitution of India.

42. In the instant case, the detaining authority in order to satisfy himself as per the mandate of Section 3 of the Act of 1988, upon the receipt of proposal of detention by the Deputy Commissioner, East Singhbhum, had made queries on several points and had called for report from Deputy Commissioner, East Singhbhum. The queries are annexed at Annexure- B of the counter affidavit.

43. Thereafter, the Deputy Commissioner, East Singhbhum, had sent the required report to Department of Home, Prison and Disaster Management, Jharkhand, vide letter no. 344(A) dated 24.05.2025(Annexure-C), informing all the criminal cases and custody status of the petitioner and possibility of getting involved in the smuggling activity on release from jail and then, detaining authority Respondent No.3, on being satisfied had issued impugned detention order against the petitioner.

44. Herein, the alleged delay in passing the detention order has been satisfactorily explained and the same has been caused due to the process in reaching to the subjective satisfaction by the authority concerned as per the mandate of Section 3 of the Act 1988.

45. Accordingly, the Issue No. I is answered.

Re : Issue No. II

46. Further, the petitioner has raised the ground that he has been granted bail by the Court of law, and the said cases were relied by the detaining

authority while passing the impugned order of detention dated 30.07.2025 and hence, detention order cannot be sustained.

47. We find that out of the three FIRs as were registered against the petitioner, i.e., Mandu (Kuju) P.S. Case No.161/2022 dated 18.07.2022 and Chakulia P.S. Case No. 35/2024 dated 06.05.2024, petitioner has been granted regular bail by order of this Court and in Arwal Police Station (Bihar) Case No. 51/2024 dated 04.02.2024, the investigation is pending.

48. So far as issue of release of the detenu on bail is concerned, we find that it is the subjective satisfaction of the Detaining Authority that in spite of his continuous activities causing threat to maintenance of public order and in such circumstances, based on the relevant materials and satisfying itself, that it would not be possible to control his habituality in continuing the criminal activities by resorting the normal procedures, the Detaining Authority passed an order detaining him under the Act.

49. The ground of bail cannot be said to affect the decision taken by the competent authority of detention, rather, the accusation so made in the First Information Report is to be seen for the purpose to have the subjective satisfaction of the nature of accusation made in the said FIR. Since, the detention order is to be passed by the competent authority anticipating the criminality of the concerned and it would be evident from the accusation made, vide letter no.344(A) dated 24.05.2025(Annexure-C) of the Deputy Commissioner, East Singhbhum, sent to Department of Home, Prison and Disaster Management, Jharkhand, wherein, three pending criminal cases registered under the NDPS Act have been mentioned.

50. The consideration of coming from judicial custody by virtue of order passed by the court to release on bail, has been taken into consideration by the Hon'ble Apex Court in the case of **D.M Nagaraja Versus Government of Karnataka and others reported in (2011) 10 SCC 215** wherein detenu had challenged his detention order. The Hon'ble Apex Court in this case had noted at paragraph-17 that the even after release on bail, detenu again started indulging in the same type of offences, particularly, threatening the public life, damaging public property, etc. and hence, detenu appeal was dismissed. Further in paragraph-20 of the aforesaid judgment the Hon'ble Apex Court had noted the subjective satisfaction of the detaining authority in passing the detention order against the detenu, for the ready reference, Paragraphs-17 and 20 of the judgment passed in the case of **D.M. Nagaraja (supra)** case are quoted herein below:-

"17. All the abovementioned details which have been correctly stated in the detention order clearly show that the appellant is not amenable to ordinary course of law. It also shows that even after his release on bail from the prison on various occasions, he again started indulging in the same type of offences, particularly, threatening the public life, damaging public property, etc. All these aspects have been meticulously considered by the detaining authority and after finding that in order to maintain public order, since his activities are prejudicial to the public, causing harm and danger, the detaining authority detained him as "goonda" under Karnataka Act 12 of 1985 for a period of 12 months and the same was rightly approved by the Advisory Board and the State Government. Inasmuch as the detaining authority has taken note of all the relevant materials and strictly followed all the safeguards as provided in the Act ensuring the liberty of the detenu, we are in entire agreement with the decision of the

detaining authority as well as the impugned order of the High Court affirming the same."

xxxxx xxxxxxxxx xxxxxxxx xxxx xxxx xxxx

20. In the case on hand, we have already extracted criminality, criminal activities starting from the age of 30 and details relating to eleven cases mentioned in the grounds of detention. It is not in dispute that in one case he has been convicted and sentenced to undergo rigorous imprisonment for a term of nine years. He had been acquitted in two cases and four cases are pending against him wherein he was granted bail by the courts. It is the subjective satisfaction of the detaining authority that in spite of his continuous activities causing threat to maintenance of public order, he was getting bail one after another and indulging in the same activities. In such circumstances, based on the relevant materials and satisfying itself, namely, that it would not be possible to control his habituality in continuing the criminal activities by resorting to normal procedure, the detaining authority passed an order detaining him under Act 12 of 1985."

51. Herein, from the FIRs as mentioned in the proposal, it is apparent that in Chakulia P.S. Case No. 35/2024 dated 06.05.2024, petitioner was found involved in recovery of 66.9 Kg of Ganja and further, in Mandu (Kuju) P.S. Case No.161/2022 dated 18.07.2022 petitioner was found involved in recovery of 700 kg of *Ganja* and also in Arwal Police Station (Bihar) Case No. 51/2024 dated 04.02.2024, petitioner was involved in recovery of 582 Kg of *Ganja*.

52. Thus, from the aforesaid proposal, it is evident that the petitioner is habitually involved in offences relating to Narcotic Drugs and Psychotropic substance, and further, on the basis of subjective satisfaction, the detaining authority has arrived at conclusion that in the interest of society, the petitioner must remain in jail so that he cannot disturb public order in any manner and the said observation is according

to the ratio laid down by the Hon'ble Apex Court in the case of **D.M
Nagaraja Versus Government of Karnataka and others (supra)**

therefore, the said observation of the detaining authority cannot be said to suffer from an error.

53. Issue No.II is answered accordingly.

54. This court, therefore, is of view that order of detention dated 30.07.2025, contained in Memo No.18/PITNDPS-09/2025-3087, Ranchi (Annexure-4) issued by the Respondent No.3-Principal Secretary Home, Prison and Disaster Management Department Government of Jharkhand, Ranchi, requires no interference.

55. Accordingly, the instant writ petition fails and is dismissed.

56. In consequence thereof, pending interlocutory application(s), if any, stands disposed of.

(Sujit Narayan Prasad, J.)

I Agree

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

*Dated: 06/01/2026
Jharkhand High Court, Ranchi
Rohit/-A.F.R.
Uploaded on 06.01.2026*