



2026:DHC:3881-DB



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Reserved on: 16.04.2026***  
***Pronounced on: 07.05.2026***

+ **W.P.(CRL) 2901/2025**

REENA

.....Petitioner

Through: Mr.Akshay Bedi and Mr.Anand  
Awasthi, Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr.Amit Tiwari, CGSC with  
Ms.Ayushi Srivastava,  
Mr.Ayush Tanwar, Mr.Arpan  
Narwal and Mr.Kushagra  
Malik, Advs. for UOI  
Mr.Amol Sinha, ASC with  
Mr.Kshitiz Garg, Mr.Ashvini  
Kumar, Mr.Nitish Dhawan,  
Mr.Manan Wadhwa and  
Mr.Anshul Sharma, Advocates  
with SI Karambir Singh, Anti  
Narcotics Branch

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

## **J U D G M E N T**

**NAVIN CHAWLA, J.**

1. This petition has been filed under Article 226 of the Constitution of India, challenging the Detention Order dated 13.05.2025, bearing no. U-11011/19/25-PITNDPS, passed by the respondent no.1 through the Joint Secretary to the Government of India, under Section 3(1) of the Prevention of Illicit Traffic in



Narcotic Drugs and Psychotropic Substances Act, 1988 (hereinafter referred to as the 'PITNDPS Act'), whereby the detention of the petitioner has been directed and she has been ordered to be kept in custody at the Tihar Jail, New Delhi, on the ground that such detention is necessary in order to prevent her from engaging in illicit trafficking of narcotic drugs and psychotropic substances in the future.

2. The petitioner also challenges the order dated 08.08.2025 passed by the respondent no.1 through the Deputy Secretary to the Government of India under Section 9(f) of the PITNDPS Act, confirming the aforesaid Detention Order passed against the petitioner.

3. The grounds on which the impugned Detention Order has been passed allege that the petitioner is involved in four (04) FIRs under the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act'), the details of which are detailed herein under:

- a. FIR No. 941/23 dated 21.10.2023, registered at P.S. Bhalswa Dairy under Sections 21/25/29 of the NDPS Act, involving alleged recovery of 300 grams of heroin, in which the trial is pending and the petitioner has been released on bail *vide* order dated 19.09.2024;
- b. FIR No. 420/22 dated 04.06.2022, registered at P.S. Prem Nagar under Section 21 of the NDPS Act, involving alleged recovery of 30 grams of heroin, in which the trial is pending at prosecution evidence stage and the petitioner has been released on bail *vide* order dated 15.11.2022;



c. FIR No. 173/21 dated 28.03.2021, registered at P.S. Prem Nagar under Section 21 of the NDPS Act, involving alleged recovery of 16 grams of heroin, in which the petitioner has been released on bail *vide* order dated 11.03.2022 and the trial is pending at prosecution evidence stage; and,

d. FIR No. 164/25 dated 14.04.2025, registered at P.S. Kanjhawala under Section 21 of the NDPS Act, involving alleged recovery of 3.65 grams of heroin in which the petitioner was arrested on 14.04.2025 itself and released on the same day on furnishing bail bonds.

4. Apart from the above FIRs, in the grounds for detention the petitioner has also been alleged to have been involved in other FIRs, as under:

*“1.5 Other Activities*

*a) Case FIR No. 27/2020, P.S. Prem Nagar, seizure of 92 cans of 180 ml] each, Desi Santra Sharab (for sale in Haryana only).*

*b) Case FIR No. 640/2019, P.S. Prem Nagar, seizure of 84 cans of 180 ml Asli Santra Masale Dar Desi Santra Sharab.*

*c) Case FIR No. 1015/2014, P.S. Kanjhawala, seizure case of 11 cartons of country made liquor each containing 50 quarter bottle of 180 ml.*

*d) Case FIR No. 80/2012, P.S. Nihal Vihar Seizure of 6 cartoons of (Joshila Santra Sharab) each containing 50 quarter bottles of 180 ml. and 40 quarter bottles 180 ml in a separate open cartoon.”*

5. The Detaining Authority, on the basis of above allegations, recorded its satisfaction to pass the impugned Detention Order, as under:



*“1.6 I am of the view that, despite being granted bail, your conduct has consistently reflected a pattern of illegal activity. You have been found to operate a narcotic distribution network through both known and unknown associates, making use of local juveniles and communication devices to facilitate the delivery of narcotic substances. Even while on bail, you have continued to pose a significant threat to public health and order. By engaging in the distribution of smaller quantities at different intervals, you have been able to secure bail repeatedly, only to re-engage in the same unlawful activities thereafter.*

*2. After going through the facts and circumstances in all above-mentioned cases, it is clearly established that you i.e. Reena W/O Ramesh @ Babban, are actively involved in trafficking of Narcotics Drugs and Psychotropic Substances and you are a habitual offender. Your presence in the society is a threat to innocent person of the locality/State/Nation and your activities are prejudicial to society.*

*3. I am aware that at present you i.e. Reena W/O Ramesh @ Babban are on bail. However, considering your conscious involvement in illegal trafficking of drugs and psychotropic substances in a repeated manner to the detriment of the society, you have a high propensity to be involved in the prejudicial activities in future.*

*4. In view of the facts mentioned above, I have no hesitation in arriving at the conclusion that you i.e. Reena W/O Ramesh @ Babban through your above acts engaged yourself in prejudicial activities of illicit traffic of narcotics and psychotropic substances, which poses serious threat to the health and welfare not only to the citizens of this country but to every citizen in the world, besides deleterious effect on the national economy. The offences*





*in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act, 1988 in future also. I am, therefore, satisfied that there is full justification to detain you i.e. Reena W/O Ramesh @ Babban under section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 with a view to preventing you i.e. Reena W/O Ramesh @ Babban from engaging in above illicit traffic of narcotics and psychotropic substances specified under schedule to the NDPS Act, 1985.”*

6. The Confirming Authority, *vide* its order dated 08.08.2025, confirmed the Detention Order passed against the petitioner, and recorded as under:

*“AND WHEREAS the matter of Reena W/o Ramesh@Babban was placed before the Central Advisory Board which is of the opinion that there exist sufficient grounds for detention of the detenu Reena W/o Ramesh @Babban.*

*AND WHEREAS, the Central Government has considered the opinion of the Central Advisory Board.*

*NOW THEREFORE, in exercise of the powers conferred by Section 9(f) of the Prevention of Illicit Traffic in narcotic Drugs and Psychotropic Substances Act, 1988, the Central Government hereby confirms the aforesaid Detention Order dated 13.05.2025 and further directs under Section 11 of the said Act that Reena W/O Ramesh @Babban be detained for a period of one year from the date of her detention i.e. 26.05.2025.”*

7. Aggrieved by the Detention Order dated 13.05.2025 and the Confirmation Order dated 08.08.2025, the petitioner has filed the present Writ petition.





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11. The learned counsel for the petitioner further submits that the proposal dated 10.02.2025 refers only to three FIRs pertaining to the years 2021, 2022 and 2023. The fourth FIR dated 14.04.2025, involving an alleged recovery of only 3.65 grams of heroin, has been subsequently used as a trigger to justify the impugned Detention Order, despite the fact that the petitioner was released on bail on the very same day in the said case. This indicates that the detention is based on a trivial incident, thereby breaking the live and proximate link. He submits that till date, the chargesheet has not been filed in the said case, showing the frivolous nature of the same and that it had been concocted to generate a live link for justifying the impugned Detention Order.

12. The learned counsel for the petitioner contends that in the bail order dated 19.09.2024 passed in FIR No. 941/2023, the learned Trial Court after considering the material on record, granted bail to the petitioner despite the rigours of Section 37 of the NDPS Act, thereby recording that the conditions under Section 37 stood satisfied. This clearly indicates that the Court did not find sufficient grounds to deny liberty to the petitioner. Instead of challenging the same or seeking cancellation of bail, the impugned Detention Order was passed to nullify the effect thereof.

13. He submits that when a detenu has been granted bail, the State ought to have first sought cancellation of bail under ordinary criminal law instead of resorting to preventive detention, which is an extraordinary measure. In support, he places reliance on *Ameena Begum v State of Telangana*, 2023 9 SCC 587; and *Dhanyam v State*



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*of Kerala & Ors.* AIR 2025 SC 2868. He further submits that none of the orders granting bail to the petitioner were challenged, which shows that petitioner was not considered a threat to warrant preventive detention.

14. By placing reliance on the judgment of the Division Bench of Calcutta High Court titled, *Jahanara Bibi v. Union of India and Ors.* 2025 SCC Online Cal 7003, the learned counsel for the petitioner submits that in cases where an accused has been granted bail and has complied with the bail conditions, the conduct alleged in such case cannot, by itself, be construed as posing threat to the public at large and the detaining authority must demonstrate compelling reasons to justify preventive detention.

15. He further submits that in the present case, none of the cases alleged against the petitioner have yet culminated in conviction and, therefore, the presumption of innocence applies and mere pendency of criminal cases cannot justify the invocation of preventive detention.

16. The learned counsel for the petitioner further relies upon the judgment of the Supreme Court in *Pramod Singla v Union of India*, 2023 SCC Online SC 895, wherein the Court has observed that preventive detention laws are a colonial legacy and possess immense potential for misuse, and therefore, such laws must be invoked only in the rarest of rare circumstances.

17. By placing reliance on judgment of this Court in *Validad Khan @Mullah v Union of India and Ors*, 2026: DHC:2054:DB, the learned counsel for the petitioner submits that the delay in executing a detention order has to be justified. In the present case, the same has to



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be counted from the day the petitioner was enlarged on bail, that is, on 19.09.2024. The proposal was sent only on 10.02.2025, and the Detention Order was passed on 13.05.2025. The petitioner was detained on 26.05.2025. He submits that therefore, there was considerable delay not only in passing of the impugned Detention Order, but also in its execution.

**SUBMISSIONS ON BEHALF OF THE LEARNED COUNSEL FOR THE RESPONDENT**

18. *Per contra*, the learned counsel for the respondent submits that the impugned Detention Order dated 13.05.2025 as well as the Confirmation Order dated 08.08.2025 have been passed after due application of mind and upon a proper appreciation of the material placed before the Detaining Authority. He submits that the authority was fully satisfied that the activities of the petitioner posed a real, live and proximate threat of the petitioner engaging in illicit trafficking of narcotic drugs in the future, prevention of which is the very object of passing a preventive Detention Order under the PITNDPS Act.

19. The learned counsel for the respondent further submits that the proposal for the detention was duly initiated on 10.02.2025, wherein details of the multiple FIRs involving the petitioner were specifically placed before the Detaining Authority.

20. The learned counsel for the respondent contends that in FIR No. 941/2023, the petitioner was granted bail on 19.09.2024 primarily on the ground of parity with the co-accused. It is contended that the non-filing of an application for cancellation of bail by the respondent



authorities is not fatal, as the Detaining Authority is only required to be aware of the fact of grant of bail and to assess the likelihood of the detenu continuing the prejudicial activities. The same has been duly considered and recorded in the impugned Detention Order.

21. The learned counsel for the respondent further submits that the conduct of the petitioner reflects a continuous and unbroken chain of prejudicial activities from the year 2021 till 2025, without any cessation. He further states that it is the repeated involvement of the petitioner, coupled with her continued engagement even after being granted bail, which clearly establishes a pattern and propensity to indulge in illicit trafficking of narcotic drugs. The petitioner is a habitual offender whose activities have initially started from bootlegging and thereafter, shifted to dealing in narcotic drugs and psychotropic substances.

22. The learned counsel for the respondent contends that the Detaining Authority has also taken note of the evolving nature of the petitioner's activities, wherein she has allegedly shifted to dealing in smaller quantities so as to remain outside the rigours of stricter provisions, thereby continuing her illegal trade in a calculated manner. He submits that as all the cases against the petitioner are pending trial, the prevention is necessary.

23. The learned counsel for the respondent further submits that the object of the detention is preventive and not punitive. The authorities, upon collection of relevant material, including certified copies of documents, processed the proposal and passed the detention order within a reasonable time. It is contended that the time taken in



obtaining certified copies and processing the proposal cannot be said to be inordinate or unexplained.

24. It is submitted that the detention order is based on relevant, cogent, and proximate material, and does not suffer from any illegality or infirmity warranting interference by this Court.

### **ANALYSIS AND FINDINGS**

25. We have considered the submissions of the learned counsels for the parties and have perused the record.

26. The impugned Detention Order has been passed against the petitioner in the exercise of powers vested in the Competent Authority under Section 3(1) of the PITNDPS Act, which reads as under:

***“3. Power to make orders detaining certain persons.-***

*(1) 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.”*

27. In *Ashok Kumar v. Delhi Administration and Ors.*, (1982) 2 SCC 403, the Supreme Court explained the object of preventive detention as one devised to afford protection to the society and not to



punish a man for having done something, but to intercept before he does it and to prevent him from doing.

28. In *Ameena Begum* (supra), the Supreme Court, on a detailed examination of the law governing judicial review of an order of Preventive Detention, summarized the principles applicable thereto as under:

*“28. In the circumstances of a given case, a constitutional court when called upon to test the legality of orders of preventive detention would be entitled to examine whether:*

*28.1. The order is based on the requisite satisfaction, albeit subjective, of the detaining authority, for, the absence of such satisfaction as to the existence of a matter of fact or law, upon which validity of the exercise of the power is predicated, would be the sine qua non for the exercise of the power not being satisfied;*

*28.2. In reaching such requisite satisfaction, the detaining authority has applied its mind to all relevant circumstances and the same is not based on material extraneous to the scope and purpose of the statute;*

*28.3. Power has been exercised for achieving the purpose for which it has been conferred, or exercised for an improper purpose, not authorised by the statute, and is therefore ultra vires;*

*28.4. The detaining authority has acted independently or under the dictation of another body;*

*28.5. The detaining authority, by reason of self-created rules of policy or in any other manner not authorised by the governing statute, has disabled itself from applying its mind to the facts of each individual case;*

*28.6. The satisfaction of the detaining authority rests on materials which are of rationally probative value, and the detaining*



*authority has given due regard to the matters as per the statutory mandate;*

*28.7. The satisfaction has been arrived at bearing in mind existence of a live and proximate link between the past conduct of a person and the imperative need to detain him or is based on material which is stale;*

*28.8. The ground(s) for reaching the requisite satisfaction is/are such which an individual, with some degree of rationality and prudence, would consider as connected with the fact and relevant to the subject-matter of the inquiry in respect whereof the satisfaction is to be reached;*

*28.9. The grounds on which the order of preventive detention rests are not vague but are precise, pertinent and relevant which, with sufficient clarity, inform the detenu the satisfaction for the detention, giving him the opportunity to make a suitable representation; and*

*28.10. The timelines, as provided under the law, have been strictly adhered to.”*

*“29. Should the Court find the exercise of power to be bad and/or to be vitiated applying any of the tests noted above, rendering the detention order vulnerable, detention which undoubtedly visits the person detained with drastic consequences would call for being interdicted for righting the wrong.”*

29. In ***Sushanta Kumar Banik*** (supra), the Supreme Court while considering the above principles and the object of preventive detention, held as under:

*“14. In view of the above object of the preventive detention, it becomes very imperative on the part of the detaining authority as well as the executing authorities to remain vigilant and keep their eyes skinned but not to turn a blind eye in passing the detention order at the earliest from the date of*



*the proposal and executing the detention order because any indifferent attitude on the part of the detaining authority or executing authority would defeat the very purpose of the preventive action and turn the detention order as a dead letter and frustrate the entire proceedings.*

*15. The adverse effect of delay in arresting a detenu has been examined by this Court in a series of decisions and this Court has laid down the rule in clear terms that an unreasonable and unexplained delay in securing a detenu and detaining him vitiates the detention order. In the decisions we shall refer hereinafter, there was a delay in arresting the detenu after the date of passing of the order of detention. However, the same principles would apply even in the case of delay in passing the order of detention from the date of the proposal. The common underlying principle in both situations would be the “live & proximate link” between the grounds of detention & the avowed purpose of detention.*

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*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*





*are not available to the person preventively detained and, therefore, in prevention detention jurisprudence whatever little safeguards the Constitution and the enactments authorizing such detention provide assume utmost importance and must be strictly adhered to.”*

30. Applying the above principles to the facts of the present case, the grounds of detention first refer to four FIRs wherein the petitioner is an accused under the NDPS Act. It further refers to four other FIRs wherein the petitioner is named as an accused with reference to offences involving the illicit liquor trade. The grounds also take note of the fact that the petitioner has been released on bail in these FIRs, the most recent being on 14.04.2025.

31. In the present case, the proposal for passing of the Detention Order was sent by the Sponsoring Authority on 10.02.2025. At that time, the petitioner had been named in three out of the aforesaid four FIRs under the NDPS Act and had been granted bail in all three, the last of such orders being the bail order dated 19.09.2024 passed by the learned Special Judge. The Detaining Authority while referring the said order observed as under:

*“ G. A bail Application was filed by you i.e. Reena in the Court of ASJ (Special Judge-NDPS ACT), Rohini Courts, which was conditionally allowed vide Hon’ble Court order dated 19.09.2024 since your co-accused got bail in this instance by Hon’ble High Court.”*

32. The learned counsel for the petitioner has rightly drawn our attention to the order dated 19.09.2024 passed by the learned Special Judge to contend that the petitioner had been released on bail not only



on the ground that his co-accused had been granted bail by this Court, but also because the learned Trial Court had found a *prima facie* case of violation of the provisions of Section 50 of the NDPS Act. We quote from the order dated 19.09.2024 as under:

*“3.1 Applying the ratio of above discussed cases to the present case, the notice served upon the accused in the present case is exactly similar as it was in Ikram's case (discussed supra). IO has not mentioned in the notice about the second option that accused may be taken to the nearest Magistrate or Gazetted Officer for the purpose of her search and by doing so, in my view, IO has failed to comply the twin conditions laid down in section 50 NDPS Act and which has been specifically enumerated by higher courts in the above stated cases. The bar of section 37 NDPS Act has become inoperative due to the failure of the IO to serve the notice under section 50 NDPS by following the twin conditions.”*

33. In our view, therefore, the Detaining Authority has failed to apply its mind on the very relevant consideration which is the ground on which the petitioner had been granted bail by the Competent Court.

34. We have already reproduced hereinabove the exposition of law by the Supreme Court in ***Sushanta Kumar Banik*** (supra), wherein it was held that in cases under the NDPS Act, a plain reading of Section 37 of the NDPS Act would show that the accused can be released on bail only if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. In such cases, if the accused has been ordered to be released on bail despite



the rigours of Section 37 of the NDPS Act, then the same is suggestive that the Court concerned might not have found any *prima facie* case against him.

35. In the present case, had the Detaining Authority noticed that apart from the fact that the co-accused has been granted bail, the learned Trial Court had also found a *prima facie* violation of Section 50 of the NDPS Act, it may have influenced the mind of the Detaining Authority in one way or the other on the question of whether or not to pass the Detention Order against the petitioner.

36. It is also important to note here that, the State also never challenged the bail order in spite of the allegations that the petitioner was even thereafter alleged to have been found dealing in heroin albeit of a small quantity.

37. Therefore, the subjective satisfaction of the Detaining Authority is vitiated by the non-consideration of relevant factors.

38. What is of further significance in the present case is that, though the petitioner had been released on bail in FIR No.941/2023 *vide* order dated 19.09.2024 of the learned Trial Court, the certified copies of the relevant papers were obtained by the Sponsoring Authority only on 16.11.2024 and 27.11.2024, and that the proposal was still not moved till 10.02.2025. There is no satisfactory explanation given by the respondent authorities for this delay.

39. Further, the next FIR against the petitioner was registered on 14.04.2025, which, as we have already noticed hereinabove, was for a small quantity and the petitioner was released on bail on the very same day on her personal bond. There is no explanation for the period



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between 10.02.2025 to 14.04.2025, that is the registration of this FIR, and thereafter between 14.04.2025 till the passing of the impugned Detention Order, which came to be passed only on 13.05.2025.

40. As far as FIR No.164/2025 is concerned, not only the quantity alleged to be involved was small, but the petitioner was released on bail on personal bond. Further, the learned counsel for the petitioner submits that till date, the Charge-Sheet has not been filed in the said FIR. It has been more than one year since the registration of the same.

41. In view of the above facts, we are not satisfied that the case in FIR No. 164/2025 is sufficient to wish away and explain the earlier delay in passing of the Detention Order.

42. As noted hereinabove, the respondent has also not explained the delay between 19.09.2024, when bail was granted to the petitioner in FIR No. 941/2023, and 10.02.2025, when the proposal was sent and thereafter till 14.04.2025, when the petitioner was again alleged to be involved in an offence under the NDPS Act.

43. As explained by the Supreme Court in *Sushanta Kumar Banik* (supra), the delay in passing of the Detention Order itself shows the absence of a live and proximate link between the grounds of detention and the purpose sought to be achieved. If the Detaining Authority had been really and genuinely satisfied after proper application of mind to the material placed before it, that it was necessary to detain the petitioner with a view to prevent her from indulging in such illegal activities, the Detaining Authority would have acted with greater promptitude in securing the arrest of the petitioner forthwith, rather than waiting for her to commit another offence.



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44. In view of the above, we are unable to sustain the impugned Detention Order. The same is accordingly set aside. In case the petitioner is not detained in any other case, she should be released forthwith.

45. We, however, clarify that any observations made by us hereinabove is only for the purpose of adjudicating the validity of the Detention Order and should not influence any of the pending cases against the petitioner, including the FIR No.164/2025.

46. The petition is allowed in the above terms. There is no order as to costs.

**NAVIN CHAWLA, J.**

**RAVINDER DUDEJA, J.**

**MAY 7, 2026/Arya/Pb**