



2026:DHC:3430-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of decision: 22.04.2026*  
+ W.P.(CRL) 3515/2025  
RAJENDER @ YUSUF @ SACHIN

.....Petitioner  
Through: Mr.Vikram Hegde, Mr.Abhinav  
Hansaraman & Mr.Trishan  
Dollny, Advs.

versus

GOVERNMENT OF INDIA MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE PITNDPS UNIT & ANR.

.....Respondents  
Through: Mr.Nishant Gautam, CGSC  
with Ms.Kavya Shukla,  
Mr.Vineet Negi & Mr.Vibhav  
U Nath, Advs.  
Mr. Amol Sinha, ASC (Crl.)  
with Mr.Kshitiz Garg,  
Mr.Ashvini Kumar, Ms.Chavi  
Lazarus & Mr.Manan Wadhwa,  
Advs. along with SI Sohan  
Thakur, Anti Narcotic Cell.

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed under Article 226 of the Constitution of India, challenging the Order dated 29.07.2025, bearing F.No. U-11012/09/2025-PITNDPS, passed by the Deputy Secretary to the Government of India, Ministry of Finance, Department of



Revenue, PITNDPS Division, under Section 9(f) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PITNDPS Act), confirming the Detention Order bearing No. F.No. U-11011/20/2025-PITNDPS dated 13.05.2025 passed by the Joint Secretary to the Government of India (hereinafter referred to as the ‘Detaining Authority’) under Section 3(1) of the PITNDPS Act and continued detention of the petitioner for a period of one year from the date of his detention, that is, 15.05.2025.

2. The Grounds of Detention refer to four FIRs registered, *inter alia*, against the petitioner herein. The details thereof are as under:-

- a) FIR No. 107/1997, dated 20.01.1997, under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, ‘NDPS Act’), wherein, by an order dated 12.01.1999, on being found guilty of a charge under Section 21 of the NDPS Act, the petitioner had been sentenced to undergo rigorous imprisonment for ten years along with a fine of Rs.1,00,000/-;
- b) FIR No. 92/2021, dated 01.03.2021, under Section 21(b) of the NDPS Act, wherein the petitioner was released on bail *vide* order dated 08.12.2021 passed by the learned ASJ/Spl. Judge (NDPS) North, Rohini Courts, Delhi;
- c) FIR No. 76/2021, dated 17.03.2021, under Sections 21/29/61/85 of the NDPS Act, wherein the petitioner was discharged *vide* an order dated 02.07.2024 passed by the learned ASJ/Spl. Judge, NDPS/ND;
- d) FIR No. 341/2024, dated 02.04.2024, under Sections 21/25/29 of the NDPS Act, wherein, by an order dated 06.03.2025 passed



by this Court, the application seeking bail filed by the petitioner had been rejected.

3. The Grounds of Detention further state that, although the Detaining Authority is aware that the petitioner is presently in judicial custody, it is of the opinion that, in view of his conscious and repeated involvement in the illegal trafficking of drugs and psychotropic substances to the detriment of society, he has a high propensity to engage in prejudicial activities in the future. It is, therefore, necessary to immobilize him and prevent him from engaging in such activities.

**SUBMISSIONS MADE BY THE LEARNED COUNSEL FOR THE PETITIONER**

4. The learned counsel for the petitioner submits that, as far as FIR No. 107/1997 is concerned, on an appeal filed against the order of conviction dated 12.01.1999, being Criminal Appeal No. 157/1999 titled *Rajender v. State, NCT of Delhi*, this Court, considering the quantity of heroin allegedly recovered from the petitioner, had reduced the sentence of the petitioner to the period already undergone. The Court had not given any opinion on the merits of the conviction of the petitioner. He submits that, in any case, this FIR being more than 28 years prior to the passing of the Detention Order, had neither a live nor proximate link with the purpose of detention. He submits that therefore, the same could not have been considered for passing the impugned detention order.

5. He submits that, similarly, FIR No. 76/2021 could not have been considered for passing the detention order inasmuch as the



petitioner had been discharged from the said case *vide* an order dated 02.07.2024 passed by the competent Court.

6. He submits that though the Detaining Authority records that the bail application filed by the petitioner in FIR No. 341/2024 has been rejected by this Court *vide* order dated 06.03.2025, it does not give any reasons as to how, in spite of such rejection, the petitioner can still indulge in illegal activities and therefore needs to be detained by invoking the extraordinary power of preventive detention. He highlights that in order to get bail in FIR No. 341/2024, the petitioner shall have to pass the rigours of Section 37 of the NDPS Act. In support of his plea, he places reliance on the judgments of the Supreme Court in *Amritlal & Ors. v. Union Govt. Through Secy., Ministry of Finance and Ors.*, (2001) 1 SCC 341; *Ameena Begum v. State of Telangana & Ors.*, (2023) 9 SCC 587; *Rameshwar Shaw v. D.M., Burdwan & Anr.*, 1963 SCC OnLine SC 33; and, *Ahmedhussain Shaikhussain @Ahmed v. Commissioner of Police, Ahmedabad and Anr.*, (1989) 4 SCC 751; and of this Court in *Rizauddin @ Riyajuddin @ Riyajudden @ Pintu v. Union of India & Ors.*, 2024:DHC:6831-DB.

**SUBMISSIONS MADE BY THE LEARNED ADDITIONAL  
STANDING COUNSEL FOR THE RESPONDENTS**

7. On the other hand, the learned ASC for the State submits that the involvement of the petitioner in four distinct FIRs over a period of time, itself shows that the petitioner has a propensity of indulging in illegal activities of dealing in narcotic drugs and psychotropic



substances immediately on being released. He submits that the FIR No. 107/1997 has been referred to in the grounds of detention, only to show this propensity, and similar is the case with FIR No. 76/2021.

8. He further submits that the Detaining Authority was well aware of the bail application filed by the petitioner herein having been rejected by this Court *vide* its order dated 06.03.2025, however, it was also aware that his co-accused has been released on bail. It was, therefore, only a matter of time that the petitioner would also have been granted bail, and given the above factors, there was every likelihood of the petitioner re-starting his illegal activities on being released. He submits that, therefore, this Court should be slow in interfering with the subjective satisfaction arrived at by the detaining authority.

9. The learned ASC further submits that the proposal for passing of the Detention Order had been moved by the sponsoring authority while the bail application filed by the petitioner was pending before this Court and, therefore, there was every likelihood of the petitioner being released on bail, given that his co-accused had been granted bail.

### **ANALYSIS AND FINDINGS**

10. We have considered the submissions made by the learned counsels for the parties.

11. In the present case, the impugned grounds of detention, after recording that the bail application filed by the petitioner in FIR No. 341/2024 has been rejected by this Court *vide* order dated 06.03.2025, further proceed to record the satisfaction for passing of the impugned



Detention Order in the following words:-

“2. After going through the facts and circumstances in all above mentioned cases, it is clearly established that you i.e. Rajender @ Yusuf @ Sachin S/O Late Nishi Bhushan, 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. Rajender @ Yusuf @ Sachin S/O Late Nishi Bhushan are in Judicial Custody. 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. Rajender @ Yusuf @ Sachin S/O Late Nishi Bhushan 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 committed by you i.e. Rajender @ Yusuf @ Sachin S/o Late Nishi Bhushan are so interlinked and continuous in character and are of such nature that these affect security and health of the nation. The grievous nature and gravity of offences committed by you i.e. Rajender @ Yusuf @ Sachin S/o Late Nishi Bhushan in a well-planned manner clearly establishes your continued propensity and inclination to engage in such acts of prejudicial activities. Considering the facts of the present case mentioned in foregoing paras, I have no hesitation in arriving at the conclusion that





*substances specified under schedule to the NDPS Act, 1985.*

6. *Considering the magnitude of the operation, the chronicle sequence of events, the well-organized manner in which such prejudicial activities have been carried on, the nature and gravity of the offence, the consequential extent of investigation involved including scanning/ examination of papers, formation of grounds, I am satisfied that the nexus between the dates of incident and passing of the Detention Order as well as object of your detention has been well maintained.”*

12. The grounds of detention themselves show that, in spite of bail having been granted to the co-accused much prior, the application filed by the petitioner for the same was rejected by this Court *vide* its order dated 06.03.2025. In such circumstances, at the very least, the grounds of detention should have further recorded was the satisfaction that the petitioner is still likely to be released on bail.

13. The learned counsel for the petitioner has rightly contended that the petitioner has to meet the standards of Section 37 of the NDPS Act before being released on bail. This Court did not find him to be meeting this standard, though his co-accused had been released on bail, and therefore, had rejected his application seeking bail.

14. In *Binod Singh v. District Magistrate, Dhanbad, Bihar & Ors.*, (1986) 4 SCC 416, the Supreme Court, while highlighting the importance of considering the prospect of imminent release in cases where the detenu was already in jail, opined as under:

*“7. It is well settled in our constitutional framework that the power of directing preventive detention given to the appropriate authorities must be exercised in exceptional*



*cases as contemplated by the various provisions of the different statutes dealing with preventive detention and should be used with great deal of circumspection. There must be awareness of the facts necessitating preventive custody of a person for social defence. If a man is in custody and there is no imminent possibility of his being released, the power of preventive detention should not be exercised. In the instant case when the actual order of detention was served upon the detenu, the detenu was in jail. There is no indication that this factor or the question that the said detenu might be released or that there was such a possibility of his release, was taken into consideration by the detaining authority properly and seriously before the service of the order. A bald statement is merely an ipse dixit of the officer. If there were cogent materials for thinking that the detenu might be released then these should have been made apparent. Eternal vigilance on the part of the authority charged with both law and order and public order is the price which the democracy in this country extracts from the public officials in order to protect the fundamental freedoms of our citizens. In the affidavits on behalf of the detaining authority though there are indications that transfer of the detenu from one prison to another was considered but the need to serve the detention order while he was in custody was not properly considered by the detaining authority in the light of the relevant factors. At least the records of the case do not indicate that. If that is the position, then however disreputable the antecedents of a person might have been, without consideration of all the aforesaid relevant factors, the detenu could not have been put into preventive custody. Therefore, though the order of preventive detention when it was passed was not invalid and on relevant considerations, the service of the order was not on proper consideration.”*



15. In *Rizauddin* (supra), on almost similar facts as the case at hand, this Court had set aside the detention order, observing as under:

*“12. The Detaining Authority, i.e., Respondent no. 1 in the ‘grounds of detention’, although records the fact that the Petitioner is in judicial custody; however, does not record that there are reasonable grounds to believe that the Petitioner is likely to be released on bail enabling him to engage in prejudicial activities. Relevant portion of the detention order is as under:*

*“3. I am aware that at present you i.e. Rizauddin @ Riyajudden @ Pintu are in judicial custody. 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 high propensity to be involved in the prejudicial activities in future on being released on bail.”*

*13. The Hon’ble Supreme Court in N. Meera Rani vs. Government of Tamil Nadu and Another (1989) 4 SCC 418, in respect to the aforementioned aspect, held as under:*

*“11. The contents of the detention order and its accompanying annexure clearly show that the detaining authority was aware and conscious of the fact that the detenu was already in custody in connection with the Bank dacoity at the time of making the detention order. The fact that the detenu's application for grant of bail in the dacoity case had been rejected on 22-8-1988 and he was remanded to custody for the offence of bank dacoity punishable under Section 397 IPC is also evident from the record. The detention order came to be made on 7-9-1988 on the above grounds in these circumstances. In the detention order the detaining authority recorded its satisfaction that the detenu's preventive*



*detention was necessary to prevent him from indulging in activities prejudicial to maintenance of public order in which he would indulge if he was allowed to remain at large. The above quoted paras 18 and 19 of the Annexure to the detention order clearly disclose the factual position. However, it may be pointed out that the detention order read along with its annexure nowhere indicates that the detaining authority apprehended the likelihood of the detenu being released on bail in the dacoity case and, therefore, considered the detention order necessary. On the contrary, its contents, particularly those of the above quoted para 18 clearly mention that the detenu had been remanded to custody for being proceeded against in due course and even though his name was not mentioned in the FIR as one of the dacoits who participated in the commission of the armed Bank dacoity yet the documents clearly revealed that the detenu was an active participant in the conspiracy to loot the bank in furtherance of which the dacoity was committed; and that considerable booty of that crime including weapons, bombs and hand grenades were recovered from his possession pursuant to the detenu's confession made after his arrest. These averments in the detention order indicate the satisfaction of the detaining authority that in its view there was ample material to prove the detenu's active participation in the crime and sharing the booty for which offence he had already been taken into custody. This view of the detaining authority negatives the impression of likelihood of detenu being released on bail.*

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21. A review of the above decisions





*of his release and in view of his antecedent activities which are proximate in point of time he must be detained in order to prevent him from indulging in such prejudicial activities, the detention order can be validly made even in anticipation to operate on his release. This appears to us, to be the correct legal position.*

*23. Applying the above settled principle to the facts of the present case we have no doubt that the detention order, in the present case, must be quashed for this reason alone. The detention order read with its annexure indicates the detaining authority's awareness of the fact of detenu's jail custody at the time of the making of the detention order. However, there is no indication therein that the detaining authority considered it likely that the detenu could be released on bail. In fact, the contents of the order, particularly, the above quoted para 18 show the satisfaction of the detaining authority that there was ample material to prove the detenu's complicity in the Bank dacoity including sharing of the booty in spite of absence of his name in the FIR as one of the dacoits. On these facts, the order of detention passed in the present case on 7-9-1988 and its confirmation by the State Government on 25-10-1988 is clearly invalid since the same was made when the detenu was already in jail custody for the offence of bank dacoity with no prospect of his release. It does not satisfy the test indicated by the Constitution Bench in Rameshwar Shaw case [AIR 1964 SC 334 : (1964) 4 SCR 921 : (1964) 1 Cri LJ 257] . We hold the detention order to be invalid for this reason alone and express no opinion on merits about the grounds of detention.”*



**14. Learned Division Bench of this Court in *Gurminder Singh @ Lalli (supra)* in a similar situation held as under:**

*“6. From the above it is apparent that the detaining authority was conscious of the fact that the petitioner was in custody, but it failed to point out any material on the basis of which it was led to believe that there was a likelihood of the bail being granted to the petitioner. The inference of the detaining authority does not seem to be grounded on any cogent material. It is important to note that the petitioner is alleged to have committed offences under Sections 21 and 23 of the Narcotic Drugs and Psychotropic Substances Act. It is also clear from the reading of the grounds of detention that the D.R.I. claims to have seized 4.800 kgs. of heroine from the car which was driven by the petitioner. Ordinarily, when such a huge quantity of heroine is alleged to have been recovered from the custody of a person, there is hardly any possibility of his being released on bail in view of the provisions of Section 37 of the Narcotic Drugs and Psychotropic Substances Act.*

*7. In *Kamarunnissa v. Union of India and another*, (1991) 1 S.C.C. 128, the Supreme Court on review of a large number of decisions laid down that even in the case of a person in custody a detention order can be passed provided the following conditions are satisfied:-*

- (1) the authority passing the order is aware of the fact that he is actually in custody;*
- (2) the detaining authority has reason to believe on the basis of reliable material placed before it that there is a real possibility of his being released on bail, and that on being so released he would in all probability indulge*



*in prejudicial activity; and  
(3) it is essential to detain him to prevent him from indulging in prejudicial activities.*

*To the same effect are the decisions of the Supreme Court in Suraj Pal Sahu v. State of Maharashtra and others, (1986) 4 S.C.C. 378; Smt. Shashi Aggarwal v. State of U.P. and Others, (1988) 1 S.C.C. 436; N. Meera Rani v. Government of Tamil Nadu and Another, (1989) 4 S.C.C. 418; and Anand Prakash v. State of U.P. and Others, (1990) 1 S.C.C. 291. 8. Thus, even in a case where a person is in custody, if the facts and circumstances of the case so demand, detention order can be passed for his detention under the law of preventive detention provided there is relevant and creditable material to indicate that he is likely to be released on bail and is likely to repeat his criminal activities.”*

**15.** *In the present case, it is an admitted fact that the application for regular bail in the fourth FIR being FIR no. 253/2021, filed by the Petitioner, already stands dismissed on 29th August, 2023 by the Learned Special Judge (NDPS Act), Rohini Courts, Delhi and considering the circumstances in which the present Petitioner is facing trial under Section 21(c) of the NDPS Act, there is no subjective satisfaction of the Detaining Authority with regard to reasonable grounds to believe that the Petitioner is likely to be released on bail. It is also pertinent to note that the present detention order has been passed after the period of 2 years and 3 months (approximately) from the date of his arrest, i.e., 18th June, 2021 in the fourth FIR. There is again no explanation given with regard to the Detaining Authority’s order being passed after a gap of 2 years and 3 months (approximately).”*



16. In *Pabbar Giri @Vijay v. Union of India and Ors.*, 2024:DHC:8798-DB, this Court, in a case involving a detention order passed while the petitioner was in judicial custody, opined that the mere acknowledgment of such custody and a general apprehension that the petitioner may participate in prejudicial activities if released on bail, was not enough. What had to be assessed was also the likelihood of the petitioner being released on bail in such circumstances. It was further reiterated that although Courts generally hesitate in substituting the “subjective satisfaction” of the Detaining Authority with its own opinion to interfere with detention orders, such satisfaction should be arrived at after proper application of mind. In situations where such was not the case, the detention order could be set aside by this Court while exercising its power under Article 226 of the Constitution of India.

17. We are of the opinion that the above judgments apply in full force to the facts of the present case.

18. In the present case, leave alone giving any reason as to how the petitioner, inspite of his recent rejection of bail application, is still likely to be released on bail and therefore, has a propensity to be involved in prejudicial activities in future, the impugned Grounds of Detention do not even record the statement that the petitioner is likely to be released on bail. In absence of such opinion, the subjective satisfaction arrived at by the Detaining Authority is completely perverse and cannot meet the muster of constitutional guarantees.

19. Accordingly, we have no hesitation in setting aside the impugned order, that is the Detention Order dated 13.05.2025 as



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confirmed by the Confirmation Order dated 29.07.2025. The same is, therefore, set aside.

20. The petition is allowed in the above terms.

21. It is made clear that any observation made in the present judgment shall in no manner be considered as an expression of opinion on any of the matters pending against the petitioner.

**NAVIN CHAWLA, J**

**RAVINDER DUDEJA, J**

**APRIL 22, 2026/rv/ik**