



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-2455-2026 (O&M)
Reserved on: 12.03.2026
Pronounced on: 24.03.2026**

Arun Alias Karan

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kawalpreet Singh Virk, Advocate and
Ms. Payal Sharma, Advocate for the petitioner.

Mr. Deepak Vashisht, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 04.11.2025 whereby he was detained under Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for short '1988 Act') and order dated 06.02.2026 whereby his detention was confirmed by Additional Chief Secretary to Government of Haryana.

2. The petitioner is a resident of District Faridabad. He was arrested in six FIRs registered under Narcotic Drugs and Psychotropic Substances, Act, 1985 (for short 'NDPS Act'). Detail of FIRs is as below:

Sr. No.	FIR Details	Date of Arrest	Quantity of Total Seizure	Date of Bail Granted	Date of Next FIR/Crime Committed
1.	FIR No.945 dated 06.11.2023 under Section 20 of NDPS Act, Police Station Sector 58, District	06.11.2023	356 Grams Ganja	Police Bail 06.11.2023 and regular bail 20.02.2024	FIR No.64 dated 23.02.2024 under Section 20 of NDPS Act, Police Station Sarai

	Faridabad, Haryana				Khwaja, District Faridabad Haryana
2.	FIR No.64 dated 23.02.2024 under Section 20 of NDPS Act, Police Station Sarai Khwaja, District Faridabad Haryana	23.02.2024	350 Grams Ganja	Police Bail 24.02.2024 and regular bail 18.09.2024	FIR No.588 dated 16.07.2024 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana
3.	FIR No.588 dated 16.07.2024 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana	16.07.2024	520 Grams Ganja	Police Bail 17.07.2024 and regular bail 18.10.2024	FIR No.908 dated 05.12.2024 under Sections 29, 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana
4.	FIR No.908 dated 05.12.2024 under Sections 29, 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana	05.12.2024	1.158 Kg Ganja	Regular bail 28.12.2024	FIR No.121 dated 15.03.2025 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana
5.	FIR No.121 dated 15.03.2025 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana	15.03.2025	510 Grams Ganja	Police Bail 16.03.2025 and regular bail 07.05.2025	FIR No.231 dated 08.05.2025 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana
6.	FIR No.231 dated 08.05.2025 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana	08.05.2025	323 Grams Ganja	Police Bail 09.05.2025 and regular bail 03.07.2025	Accused on regular bail in FIR No.231 dated 08.05.2025 under Section 20 of NDPS Act, Police Station Sector 58, District Faridabad, Haryana

3. The Deputy Commissioner of Police on 16.08.2025 proposed petitioner's detention under 1988 Act which was approved on 04.11.2025. He was detained on 07.11.2025 and since then is in custody. During the pendency of instant petition, matter was referred to Advisory Board comprising three members. The Advisory Board vide its report dated 19.12.2025 confirmed his detention. The Board formed an opinion that sufficient cause is made out for preventive detention of Arun @ Karan. On the basis of Board's report, the State Government has passed order dated 06.02.2026 whereby he has been ordered to be detained for six months from the date of his detention.

4. Learned counsel representing the petitioner submits that petitioner does not understand English, however, was supplied copy of detention order in English. Detention order was further supplied after more than two weeks from the date of detention. He was released on bail on 03.07.2025 and proposal for detention was forwarded on 16.08.2025. Order of detention was finally passed on 04.11.2025. Order of preventive detention was passed to snap live link and in the case of petitioner there was no live link still detention order was passed. The respondent did not point out propensity of petitioner's involvement in illegal activities. In the absence of live link, the impugned order is bad in the eye of law. This Court in '*Hari Om Versus State of Haryana and Others*', *Law Finder Doc Id#2573761* has held that detention after three months from the date of proposal is bad in the eye of law. The petitioner undertakes that he in future shall not involve in activities relating to narcotic drugs.

5. *Per contra*, learned State counsel submits that petitioner is a habitual offender. He was found involved in six NDPS cases. Six FIRs

were registered against him within two years. He repeated offence after released on bail. As soon as he was released on bail, he repeated the offence. In such circumstances, Authorities found it appropriate to detain him under 1988 Act. He was released on bail on 03.07.2025 and proposal for his detention was forwarded on 16.08.2025. The proposing authority was jurisdictional DCP. Proposal was firstly examined by a committee of officers posted in the office of Director General of Police (DGP) and thereafter record was forwarded to Home Department. The order was finally passed by Home Department. In this process, a period of two and a half months was consumed. There was no delay on the part of respondent. The petitioner is a habitual offender and repeatedly engaging himself in activities prohibited by NDPS Act. The Authorities under compelled circumstances, ordered to detain him. The Board has considered complete material on record and thereafter approved his detention.

6. Heard the arguments and perused the record.

7. It is undisputed fact that preventive detention is a draconian step. It should be initiated in exceptional and compelled circumstances. Matter should not only be examined in the light of statutory provisions but also Article 21 and 22 of the Constitution of India. Preventive detention has remained subject matter of judicial discussion and pronouncement since independence.

8. A five-judge bench of Hon'ble Supreme Court in *Haradhan Saha vs. State of West Bengal & Ors (1975) 3 SCC 198*, has held that preventive detention has nothing to do with the commission of an offence by the detenu or any prosecution against him. The preventive detention

can be ordered before or during the prosecution and even with or without prosecution of a criminal case against the detenu. It can be made in anticipation. Preventive detention can be ordered even after discharge or acquittal of an accused. Pendency of a criminal case is no bar to order preventive detention and Article 14 of the Constitution of India, in such cases, takes a back seat because preventive detention and prosecution are not synonymous. The purposes are different. The authorities are different. The nature of proceedings is different. In a prosecution an accused is sought to be punished for a past act. In preventive detention, the past act is merely the material for inference about the future course of probable conduct on the part of the detenu. The Court has further laid down principles which need to be noticed while adjudicating validity of order of preventive detention. The Court has held:

“First, merely because a detenu is liable to be tried in a criminal court for the commission of a criminal offence or to be proceeded against for preventing him from committing offences dealt with in Chapter VIII of the Code of Criminal Procedure would not by itself debar the Government from taking action for his detention under the Act. Second, the fact that the Police arrests a person and later on enlarges him on bail and initiates steps to prosecute him under the Code of Criminal Procedure and even lodges a first information report may be no bar against the District Magistrate issuing an order under the preventive detention. Third, where the concerned person is actually in jail custody at the time when an order of detention is passed against him and is not likely to be released for a fair length of time, it may be possible to contend that there could be no satisfaction on the part of the detaining authority as to the likelihood of such a person indulging in activities which would jeopardise the security of the State or the public order. Fourth, the mere

circumstance that a detention order is passed during the pendency of the prosecution will not violate the order. Fifth, the order of detention is a precautionary measure. It is based on a reasonable prognosis of the future behaviour of a person based on his past conduct in the light of the surrounding circumstances.”

8.1 A division bench of Supreme Court in the case of ***Ameena Begum vs The State of Telangana & Ors, 2023(9) SCC 587*** laid down certain guiding principles to test the legality of preventive detention orders. Gainful reference is reproduced as below:

“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 (i) 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;

(ii) 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;

(iii) 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;

(iv) the detaining authority has acted independently or under the dictation of another body;

(v) the detaining authority, by reason of self-created rules of policy or in any other manner not authorized by the governing statute, has disabled itself from applying its mind to the facts of each individual case;

(vi) 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;

(vii) 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;

(viii) 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;

(ix) 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

(x) the timelines, as provided under the law, have been strictly adhered to.

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.

8.2 In ***Sushanta Kumar Banik vs State of Tripura & Ors, AIR 2022 SC 4715*** in addition to observing that there was no "live and proximate link" between the grounds of detention and detention order, another factor was also taken into consideration by the Hon'ble Apex Court that petitioner was on bail in all the cases and no challenge was made by the State authorities to the said orders. Relevant para from this judgment is reproduced below:

"23. A plain reading of the aforesaid provision would indicate that the accused arrested under the NDPS Act, 1985 can be ordered to 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. If the appellant herein was ordered to be released on bail despite the rigours of Section 37 of the NDPS Act, 1985, then the same is suggestive that the Court concerned might not have found any prima facie case against him. Had this fact been brought to the notice of the detaining authority, then it would have influenced the mind of the detaining authority one way or the other on the question whether or not to make an order of detention. The State never thought to even challenge the bail orders passed by the special court releasing the appellant on bail."

9. In the case in hand, the proposing authority in its proposal has observed:

Status of accused -

Subsequent to the proposal, accused Arun S/O Partap resident of H. No. 786, near Bansi Vidya Niketan School, Rajeev colony Police Station, Sector 58, Faridabad **has not been involved in any other case.** Presently the accused Karan is on regular bail since 29.05.2025 in case FIR No. 87 Dated 06.04.2025 u/s 20-61-85 NDPS Act, PS Sarai Khwaja, Distt Faridabad Haryana.

Conclusion-

The accused Arun S/O Partap resident of H. No.786, near Bansi vidya niketan school, Rajeev colony Police Station Sector 58 Faridabad is a habitual illicit drug trafficker. He has been caught red-handed with narcotic drugs and psychotropic substances multiple times. Previous arrests in NDPS cases so far have not deterred him from re-engaging in drug trade and he is continuously misusing the provision of bail to reinvigorate him drug trade. If not detained immediately, in all probability, he will

again engage in smuggling and supplying of narcotic drugs and psychotropic substances in Faridabad.

Illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy and youth. In view of the above-mentioned facts, it is proposed that detention of Accused Arun u/s 3(1) of the PIT NDPS Act 1988 may be considered so as to prevent him from indulging repeatedly in the illegal trafficking of narcotics drugs and psychotropic substances.

10. The proposing authority has recorded that accused is not involved in any case after release on bail. He during the course of hearing has undertaken that he may be detained, if in future is found involved in the cases relating to NDPS. He was detained on 07.11.2025 and as per detention order, his detention is for six months. He was found involved in possessing 'ganja' and not any synthetic drug. Live link was missing at the time of his detention and State never asked for cancellation of his arrest. He belongs to poor strata of the society and many family members are dependent upon him.

11. In the wake of above discussion and findings, this Court is of the considered opinion that impugned detention order deserves to be set aside and accordingly set aside. The petitioner is ordered to be set free subject to furnishing personal bond of future good conduct.

12. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

24.03.2026

Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No

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