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The PIT-NDPS Act, 1988: Examining the Less-Explored Legislation

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ABSTRACT

The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 addresses the pressing issue of escalating drug trafficking and abuse in certain regions of India. While the Act stands as a crucial legal provision in combating this menace, its utilization has been notably inadequate. This article explores the genesis of the Act, rooted in the surge of illicit drug transit traffic and the inadequacies of existing penal provisions. Central to its provisions is the authority to issue detention orders against individuals involved in such activities, with stringent safeguards to protect individual liberties. Examining the scheme of the Act reveals its comprehensive coverage of illicit trafficking activities and the power vested in detaining authorities to issue orders. Key provisions outline the process of issuing detention orders, including the establishment of Advisory Boards to review cases and the detenu's right to make representations against orders. The Act emphasizes the subjective satisfaction of the detaining authority, necessitating a clear apprehension of the individual's involvement in illicit activities. While preventive detention serves as a vital tool in disrupting illegal drug networks and safeguarding public health and security, its effectiveness hinges on adherence to certain legal safeguards. The article highlights the necessity for authorities to exercise discretion judiciously and uphold constitutional principles in the implementation of the PIT-NDPS Act.

I. INTRODUCTION

The trafficking and abuse of Narcotic Drugs and Psychotropic Substances have escalated to alarming levels in certain regions of our country. It is crucial that the Governments and the agencies employ all available legal provisions to combat this menace effectively.

Among these provisions, the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (*'PIT-NDPS Act'*) stands out, yet its utilization has been notably inadequate. Nevertheless, the necessity of a preventive detention law in addressing the narcotics problem also remains a subject of debate.

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(A) Why PITNDPS Act?

At the time when this Act was being enacted in India, the transit traffic of illicit drugs was observed to be increasing, leading to issues of abuse and addiction. This surge had created a demand for drugs within the country, thereby prompting illicit cultivation and manufacturing activities.

Despite the existence of penal provisions in the Narcotic Drugs and Psychotropic Substances Act, 1985 ('*NDPS Act*'), they were deemed insufficient to curb the illicit transit traffic of drugs. While the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, addressed preventive detention concerning drug smuggling, it lacked provisions to deal with individuals involved in drug trafficking within the country. These reasons are well documented in the Statements of Objects and Reasons of the PIT-NDPS Act.

In response to the recommendations of the Cabinet Committee established to combat drug trafficking and prevent drug abuse, it was proposed to introduce additional legislative measures, including a preventive detention scheme. Consequently, the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988, was promulgated on 04.07.1988, in alignment with the Cabinet sub-Committee's recommendations. The Ordinance was subsequently enacted into law in August, 1988.

The reasons for its enactment, as mentioned in the Preamble of the Act, in a nutshell, are that illicit trafficking in narcotic drugs and psychotropic substances poses a grave threat to public health, welfare, and the national economy, and considering the organized and clandestine nature of such activities, especially in vulnerable areas, it is essential to detain individuals involved in any manner with such illicit traffic for effective prevention.

Thus, the primary aim of this statute was to authorize the preventive detention of individuals engaged in any form of illicit drug trafficking involving narcotic drugs and psychotropic substances.

II. EXAMINING THE SCHEME OF THE ACT AND ITS NOTEWORTHY PROVISIONS

(A) What does 'illicit traffic' mean?

The term 'illicit traffic'³ under the Act encompasses various activities related to narcotic drugs and psychotropic substances, including: (i) Cultivation of coca plants or gathering any part of the plant; (ii) Cultivation of opium poppy or any cannabis plant; (iii) Engaging in production,

³ The Prevention Of Illicit Traffic In Narcotic Drugs And Psychotropic Substances Act, 1988, § 2(e) No. 46, Acts of Parliament, 1988

manufacture, possession, sale, purchase, transportation, warehousing, concealment, use, consumption, import, export, or transshipment of narcotic drugs or psychotropic substances; (iv) dealing in any activities involving narcotic drugs or psychotropic substances not covered in the above clauses; (v) handling or renting out premises for carrying out any of the activities mentioned above. It also includes financing, abetting, conspiring, or harboring individuals engaged in these activities.

(B) Who can Issue Detention Orders and Against Whom?

As per Section 3(1) of the Act, a detention order can be passed by any of the following persons:

1. The Central Government; or
2. Any officer of the Central Government, not below the rank of a Joint Secretary, empowered by the Government for this purpose; or
3. A State Government; or
4. Any officer of a State Government, not below the rank of a Secretary, empowered by the Government for this purpose.

Moreover, a detention order may be issued against any individual, irrespective of nationality i.e. against a foreigner also, if the concerned Government is satisfied of the necessity to prevent his or her involvement in the illicit trafficking of narcotic drugs and psychotropic substances.

To put things into perspective, it would be significant to take note of an illustrative list contained in a brief of the PIT-NDPS Act prepared by the Department of Revenue, Ministry of Finance, Government of India⁴, which guides the officers concerned as to who can be detained under this Act. Following persons may be considered for the purpose of detention under this Act:

1. Detaining organizers and financiers of illicit trafficking: Those who orchestrate illegal activities behind the scenes, avoiding direct involvement or written instructions, but are implicated through gathered intelligence and circumstantial evidence.
2. Detaining habitual or organized traffickers caught red-handed in the act: Individuals caught red-handed with narcotics who, when released on bail, persist in illegal activities, tamper with evidence, and undermine prosecution efforts.

⁴ Dept. of Revenue, MoF, Govt. of India, “*The Prevention Of Illicit Traffic In Narcotic Drugs And Psychotropic Substances Act, 1988 at a glance*”, POLICE PUDUCHERRY [https://police.py.gov.in/At%20a%20glance%20-%20Prevention%20of%20Illicit%20Traffic%20in%20Narcotic%20Drugs%20and%20Psychotropic%20Substance%20Act%20\(PITNDPS\)%20dt%2015.09.16.pdf](https://police.py.gov.in/At%20a%20glance%20-%20Prevention%20of%20Illicit%20Traffic%20in%20Narcotic%20Drugs%20and%20Psychotropic%20Substance%20Act%20(PITNDPS)%20dt%2015.09.16.pdf)

3. Detaining licensed cultivators indulging in embezzlement of opium
4. Detaining persons indulging in illicit cultivation of opium poppy / cannabis

(C) The Process of Issuing Detention Orders: Summarised

As a general practice, the authorities, called Sponsoring Authorities, such as State police, Narcotic Control Bureau, Customs department, etc. send proposals for preventive detention to the detaining authority. Though the Act does not provide for it, certain Screening committees are often formed by the governments to review proposals for detention before submission to the detaining authority. However, any opinion by such Screening committees is not binding, and the detaining authority independently decides on detention orders.⁵

Upon issuance of the Detention Order by the State Government or its officer concerned, the State Government must forward a report *qua* any such order to the Central Government within a period of ten days.⁶

The grounds of detention and the documents relied upon should be served on the detenu promptly after detention, typically within five days. In exceptional circumstances, with reasons recorded in writing, this may extend up to fifteen days from the date of detention.⁷ This provision aligns with the requirement of clause (5) of Article 22 of the Indian Constitution.

As per Section 9 of the Act, the Central Government and State Governments are required to form Advisory Boards as per the mandate of Article 22 of Constitution of India, comprising three sitting judges of the High Court. Within five weeks of detaining an individual, the relevant Government authority must refer the case to the Advisory Board. The Board is required to provide its opinion within eleven weeks from the date of detention, after reviewing the material presented before it and, if necessary, hearing the detenu. If the Advisory Board concludes that there are no grounds for detention, the detenu has to be released. Conversely, if sufficient grounds are found, the Government can determine the further duration of detention. Pertinent to note is the fact that legal practitioners are not allowed to appear or present the case of detenu before the Advisory Board, and the report of the Board is confidential in nature.

The maximum period of detention, where the detention order has been confirmed by the Advisory Board, is one year from the date of detention.⁸ A detention order passed under this

⁵ *Ibid*

⁶ The Prevention Of Illicit Traffic In Narcotic Drugs And Psychotropic Substances Act, 1988, § 3(2) No. 46, Acts of Parliament, 1988

⁷ *Id.*, § 3(3)

⁸ *Id.*, § 11

Act can be enforced anywhere in India following the procedures outlined for the execution of arrest warrants as per the Code of Criminal Procedure, 1973.⁹

The relevant Government has the authority to designate the location and terms of detention for the detenu, including provisions regarding maintenance, interactions or communication with others, disciplinary measures, and penalties for violations of discipline. The detenu may be transferred from one detention facility to another, either within the same state, or even to a different state though with the consent of the other state government.¹⁰

As per provisions of the Act, a detention order can be revoked or modified at any time by the Central Government or State Government, if it has been passed by an officer of the State Government, or can be revoked or modified by the Central Government, if it has been passed by an officer of the Central Government or by any State Government. However, any such revocation is no bar to passing another detention order against the same person.¹¹

Additionally under the Act, the Central Government has the authority to release a person so detained pursuant to an order passed by it or by its subordinate officer or by a State Government or its officer. The State Government can also release a person who has been detained pursuant to an order passed by it or its officer concerned. However, this release can be for a specified period i.e. a temporary release, with or without conditions, as accepted by the individual. Additionally, the Government concerned can revoke this release at any time. Otherwise, there is no provision of any release of the detenu on bail, etc.¹²

III. SUBJECTIVE SATISFACTION OF DETAINING AUTHORITY & THE RULE OF PROXIMATE LINK

A reading of Section 3(1) of the Act makes it clear that before passing the detention order under the Act, the detaining authority has to first arrive at its **subjective satisfaction** i.e., the need for passing of such order. Detention orders cannot be passed in mechanical manners and without application of mind. Thus, the detaining authority should have a clear apprehension about the possibility of the person continuing his activities relating to illicit traffic of narcotic drugs and psychotropic substances.

At this juncture, it is also crucial to take note of Section 6 of the PIT-NDPS Act which provides that if an order under Section 3(1) has been passed on two or more than two grounds, the order

⁹ *Id.*, § 4

¹⁰ *Id.*, § 5

¹¹ *Id.*, § 12

¹² *Id.*, § 13

shall be deemed to have been passed separately on each ground. Further, merely because one or some of the grounds is/are vague, non-existent, not relevant, invalid, or not connected or not proximately connected with detenu, the detention order shall not be invalid or inoperative. Subjective satisfaction of detaining authority with respect to the remaining ground or grounds holds good. While interpreting a *pari materia* provision in the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, the Hon'ble Apex Court in case of *State of Gujarat v. Chamanlal Manjibhai Soni*¹³ held that where each activity of the detenu is a separate ground by itself, then the order of detention will not be vitiated merely because one of the grounds of detention is vague or irrelevant or unspecific. Similarly, in the case of *Gautam Jain v. Union of India*¹⁴, the legal position was clarified by the Hon'ble Supreme Court and it was held that if a detention order is based on multiple independent grounds, it remains valid even if one ground is found invalid. However, if the order relies on one composite ground, though containing various species or sub-heads, it becomes invalid if that ground is found faulty.

As regards subjective satisfaction of the detaining authority, it will be noteworthy to refer to the observations in case of *Sushanta Kumar Banik v. State of Tripura*¹⁵, wherein the Hon'ble Supreme Court while quashing a detention order passed under PIT-NDPS Act, observed that the necessary subjective satisfaction, crucial for the issuance of a detention order, will be compromised or vitiated if essential facts, which could impact the decision-making process or sway the detaining authority's decision of whether to issue a detention order or not, are either withheld or suppressed by the sponsoring authority or ignored and not considered by the detaining authority before issuing the detention order.

The Division Bench of Hon'ble Delhi High Court in case of *Rajesh Sharma v. Union of India*¹⁶ held that the export of the psychotropic substances in question, not being part of Schedule-I to the NDPS Rules, would per se not amount to an activity prohibited under the NDPS Act read with the NDPS Rules, and further, it could not be said with any degree of definiteness that they were indulging in 'illicit traffic of psychotropic substances' as understood in the context of Section 3(1) of the PIT-NDPS Act, which would be a debatable issue. Thus, the detention orders impugned therein were quashed by the Court.

Another important rule and consideration that surfaces while appreciating and assessing the

¹³ State of Gujarat v. Chamanlal Manjibhai Soni, (1981) 2 SCC 24

¹⁴ Gautam Jain v. Union of India, (2017) 3 SCC 133

¹⁵ Sushanta Kumar Banik v. State of Tripura, 2022 SCC OnLine SC 1333

¹⁶ Rajesh Sharma v. Union of India, 2009 SCC OnLine Del 1330

validity of a detention order, be it under PIT-NDPS Act or any other similar statute, is the **rule of proximity or live-link**. Typically, when a significant and unexplained time gap exists between the date of an incident in question and the issuance of the detention order, it can be argued that the direct connection between the two events has been severed. Similarly, there should also be proximity between the date of sending of proposal or issuance of order, and date of arrest pursuant to detention order. Conversely, if there is a plausible explanation for the prolonged delay, it suggests that the crucial link between the two dates remains intact.

In the landmark case of *Sk. Nizamuddin v. State of W.B.*¹⁷, the Hon'ble Apex Court had quashed a detention order issued under Maintenance of Internal Security Act, 1971 on the ground that the delay of about two and a half months in detaining the petitioner pursuant to the issuance of order of detention which was not satisfactorily explained casted considerable doubt on the genuineness of the subjective satisfaction of the detaining Magistrate. However, the Court clarified that delay in executing a detention order doesn't automatically invalidate the detaining authority's subjective satisfaction. Each case must be assessed based on its unique circumstances, and a reasonable explanation for the delay can validate the detaining authority's subjective satisfaction. Some of the relevant observations are extracted hereunder:

“It would be reasonable to assume that if the District Magistrate was really and genuinely satisfied after proper application of mind to the materials before him that it was necessary to detain the petitioner with a view to preventing him from acting in a prejudicial manner, he would have acted with greater promptitude in securing the arrest of the petitioner immediately after the making of the order of detention, and the petitioner would not have been allowed to remain at large for such a long period of time to carry on his nefarious activities.

In case of *Bhawarlal Ganeshmalji v. State of Tamil Nadu*¹⁸, it was observed by the Hon'ble Supreme Court that:

“It is further true that there must be a “live and proximate link” between the grounds of detention alleged by the detaining authority and the avowed purpose of detention namely the prevention of smuggling activities. We may in appropriate cases assume that the link is “snapped” if there is a long and unexplained delay between the date of the order of detention and the arrest

¹⁷ *Sk. Nizamuddin v. State of W.B.*, (1975) 3 SCC 395

¹⁸ *Bhawarlal Ganeshmalji v. State of Tamil Nadu*, (1979) 1 SCC 465

of the detenu. In such a case, we may strike down an order of detention unless the grounds indicate a fresh application of the mind of the detaining authority to the new situation and the changed circumstances. But where the delay is not only adequately explained but is found to be the result of the recalcitrant or refractory conduct of the detenu in evading arrest, there is warrant to consider the "link" not snapped but strengthened."

The Division Bench of Hon'ble High Court of Bombay, in case of **Rafiq Abdul Karim Merchant v. Rajendra Singh**¹⁹ expressed that delay alone in issuing a detention order does not necessarily invalidate it. Generally, lack of explanation for the delay would render it invalid. However, in cases of preventive detention like under COFEPOSA or PIT-NDPS Act, unexplained delay in issuing the order does not vitiate it *per se*, and the order would be considered invalid only if the delay severs the live-link between the detenu's prejudicial activities and the rationale behind the detention order. The detenu's propensity and potentiality to commit such activities are crucial factors in determining this link. If there's no evidence of the detenu having such propensity, unexplained delay in issuing the order would invalidate it. Conversely, if there is evidence of the detenu's propensity, the delay does not break the link, and the order remains valid. Therefore, after considering the grounds of detention, it was found that the propensity and potentiality of the detenu was such that it could not have been frustrated by a mere delay of seven and half months in the issuance of the detention order. Thus, the detention order was held as valid by the Court.

In case of **Sushanta Kumar Banik v. State of Tripura**²⁰, the Hon'ble Apex Court after referring to various precedents, concluded that if there is an unreasonable delay between the issuance of the detention order and the actual arrest of the detenu, as well as between the proposal and the passing of the detention order, such delays, unless satisfactorily explained, cast significant doubt on the genuine subjective satisfaction of the detaining authority. Consequently, this renders the detention order invalid as the "live and proximate link" between the grounds of detention and the purpose of detention is severed upon the arrest of the detenu.

IV. DETENU'S RIGHT TO REPRESENTATION

Article 22(5) of the Indian Constitution mandates that when any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall afford him the earliest opportunity of making a representation against the order.

¹⁹ Rafiq Abdul Karim Merchant v. Rajendra Singh, 1998 SCC OnLine Bom 26

²⁰ Sushanta Kumar Banik v. State of Tripura, 2022 SCC OnLine SC 1333

This provision, thus, serves as a check against arbitrary or unjustified detention by requiring that the detaining authority provides the detenu with the earliest opportunity to make a representation against the detention order. By allowing individuals to present their case and provide reasons why they should not be detained, Article 22(5) upholds the principles of natural justice and due process, as it allows detenu to assert their rights and contest the validity of the detention order.

A situation had arisen in the case of *Gracy (Smt) v. State of Kerala*²¹, wherein the detenu, initially arrested for illicit ganja cultivation, had his bail application rejected, and had been subsequently served with a detention order under the PIT-NDPS Act. The order informed the detenu of her right to make representations to the detaining authority i.e. Central Government, and the Central Advisory Board. The detenu's case was referred to the Central Advisory Board by the Central Government, and during this process, she submitted a representation directly to the Advisory Board. The Advisory Board, after considering both the reference from the Central Government and the detenu's representation, opined in favor of the detention. However, the Central Government did not independently consider the detenu's representation, citing that it was addressed to the Advisory Board and not to them. While quashing the order of detention passed in this case, the Hon'ble Supreme Court held that Article 22(5) provides a detenu the right to submit representation against the order, and imposes the obligation on the detaining authority to consider and decide the same. The requirement of its separate consideration by the Advisory Board is an additional requirement implied by reading together clauses (4) and (5) of Article 22, even though express mention in Article 22(5) is only of the detaining authority. Further, the order of detention is issued by the detaining authority and so also the order of its revocation if the representation is accepted. It was held that there was a failure on part of the Central Government to follow its duty under Article 22(5) of the Constitution to consider and decide the representation independently of the Advisory Board's opinion. Thus, the order of detention as well as the order of its confirmation were quashed.

The Constitution Bench of Hon'ble Supreme Court in case of *Kamleshkumar Ishwardas Patel v. Union of India*²² held that the detenu under the COFEPOSA and the PIT-NDPS Act have the right to make representations to the officer who issued the detention order, and this right is in addition to their right to make representations to the relevant State or Central Government. Further, failure to inform the detenus of this right upon serving the detention order denies them the opportunity to make a representation, thus infringing upon their rights. Since the officer

²¹ Gracy (Smt) v. State of Kerala, (1991) 2 SCC 1

²² Kamleshkumar Ishwardas Patel v. Union of India, (1995) 4 SCC 51

concerned, in the appeals which were being adjudicated by the Court, had not considered the representation of the detenus, their detention orders were quashed and they were ordered to be released.

In *Rashid Kapadia v. Medha Gadgil*²³, a detention order passed under COFEPOSA, several provisions of which are *pari materia* to PIT-NDPS Act, was quashed by the Hon'ble Supreme Court on the ground that there was inordinate delay of one month in deciding the representation of the detenu, thereby infringing his important right under Article 22(5) of the Constitution.

The Division Bench of Hon'ble High Court of Gauhati in case of *Babul Ahmed v. Union of India*²⁴ also quashed an order of detention issued under PIT-NDPS Act after taking into account that the representation preferred by the detenu against his detention was disposed of i.e. rejected after a period of about two and a half months and there were no reasons justifying such delay.

Therefore, what flows from the aforesaid discussion is the importance of detenus' right to make representations against detention orders. Failure to consider such representations, or undue delays in doing so, can lead to the quashing of detention orders and the release of the detenus.

V. TO CONCLUDE: PREVENTIVE DETENTION IN CASES OF NDPS - WHETHER A JUSTIFIED STATE ACTION?

There can be no doubt about the fact that illicit drug trafficking not only fuels organized crime and undermines public safety and security, but also poses significant challenges to public health systems by fostering drug addiction and substance abuse disorders. Moreover, the proceeds from drug trafficking often fund criminal enterprises and destabilize communities, making it crucial for the governments to adopt stringent measures to curb such activities.

The PIT-NDPS Act is a crucial piece of legislation aimed at combating the menace of illicit drug trafficking and related activities, and it serves several important purposes. By allowing for preventive detention, the law enables authorities to detain individuals suspected of engaging in activities related to drug trafficking before they commit further offences, thus disrupting illegal drug networks. By detaining key individuals involved in drug trade, authorities can gather intelligence, dismantle criminal organizations, and prevent the flow of illicit drugs. The Act also aims to protect individuals and communities from the harmful effects of drug abuse by targeting those involved in illicit drug trade, thereby making an effort to reduce the availability

²³ Rashid Kapadia v. Medha Gadgil, (2012) 11 SCC 745

²⁴ Babul Ahmed v. Union of India, 2023 SCC OnLine Gau 676

of narcotics and psychotropic substances in society. One may also say that the existence of preventive detention provisions acts as a deterrent against individuals involved in drug trafficking activities. Knowing that they could be detained without trial or charge can discourage people from engaging in illegal drug trade, thereby helping to deter potential offenders.

However, if one examines the statistics, it would become clear that this legislation has remained less-explored and under-utilized by the authorities. As per the NCRB data of 2020, there were a total of 814 detentions under the PIT-NDPS Act, out of which 516 people were still detained at the end of one year.²⁵ In the year 2021, the detentions under this Act were about 1331, out of a total 1.1 lakh detentions in the country under various preventive detention laws, as per data of NCRB.

An example of detention order issued under this Act, in Delhi, was the detention of one Drug Trafficker Kingpin namely Sharafat Sheikh who was served a detention order for one year in June, 2021. This was the first ever successful PIT-NDPS Act Proposal of Delhi Police found fit by Screening Committee headed by NCB Chief and further approved by Central Advisory Board.²⁶ As per National Narcotics Coordination Portal data, between the period 2020 to 2022, at least 7 more proposals were sent either by Delhi Police or by NCB Delhi Police, however, neither of them could ultimately get approved.²⁷

This can also be understood in a manner that the subjective satisfaction which is required by the authorities in case of PIT-NDPS Act is crucial in deciding the validity of any preventive detention order issued under this Act. Courts have often tested the orders issued by the authorities on the anvil of whether there was any material to show the involvement of detenu in any 'illicit traffic' of narcotic drugs and psychotropic substances and whether there was any necessity and proximate link between the date of sending of proposal and date of detainment of an individual. Furthermore, there are certain mechanisms inbuilt within the PIT-NDPS Act for protecting the rights of individuals detained under its provisions. These safeguards include the requirement for review of detention orders by an independent advisory board, the right of detenus to be informed of the grounds of their detention, and the opportunity to make representations against their detention before the appropriate authorities. Considering the legal

²⁵ NCRB Data, 2020, for 'Preventive Detention', <https://ncrb.gov.in/sites/default/files/CII2020%20Volume%203.pdf>

²⁶ Delhi Police, Drug Mafia's One-Year Preventive Detention Gets Central Advisory Board Nod, infopromotion.delhipolice.gov.in/Press_Release_Details_iframe.aspx?cid=DQTHFz3YKBg=

²⁷ National Narcotics Coordination Portal (NCORD), PITNDPS Offenders Summary, <https://narcoindia.in/proclaimed-offeners-pitndps-orders.php>

framework and the approach of Courts towards the executive actions in respect of issuance of preventive detention, the authorities, needless to say, have to remain mindful of their actions and the consequences which could flow from such actions.

To conclude, one can refer to the following observations of Hon'ble Apex Court in case of **Rattan Singh v. State of Punjab**²⁸ (1981) 4 SCC 481:

“Maybe that the detenu is a smuggler whose tribe (and how their numbers increase) deserves no sympathy since its activities have paralysed the Indian economy. But the laws of Preventive Detention afford only a modicum of safeguards to persons detained under them and if freedom and liberty are to have any meaning in our democratic set-up, it is essential that at least those safeguards are not denied to the detenues.”

There is no gainsaying that preventive detention, distinct from punitive measures, isn't intended as punishment. Therefore, it warrants careful consideration, as it involves depriving an individual of liberty before any conviction by a court of law. Constitutional safeguards and legislative frameworks governing preventive detention are designed to ensure fairness. Courts have also established principles guiding such cases, consistently prioritizing individual liberties and requiring compelling justifications from the authorities for any deprivation of liberty. Thus, preventive detention is permissible only when the authorities present a clear and incontrovertible case within the bounds set by the Constitution of India and the PIT-NDPS Act.

²⁸ Rattan Singh v. State of Punjab, (1981) 4 SCC 481