

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 2920 OF 2025

**ANNU @ ANIKET THROUGH HIS
FATHER AS NEXT FRIEND KRUPAL
SINGH THAKUR**

...APPELLANT(S)

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENT(S)

O R D E R

UJJAL BHUYAN, J.

The related Special Leave Petition was extensively heard by us on 27.06.2025 on which date leave was granted and the appellant was directed to be released forthwith. However, considering the facts and circumstances of the case, we were of the view that a reasoned order should be passed. Accordingly, we pen down the following reasoned order.

2. Relevant portion of the order dated 27.06.2025 reads as follows:

Thus, looking into the facts and circumstances of the case, we direct that the appellant, who is presently lodged in the Central Jail at Bhopal, shall be released forthwith from custody, if not required in any other criminal case.

In view of above, the criminal appeal is disposed of.
Reasoned order will follow.

3. This appeal is directed against the judgment and order dated

25.02.2025 passed by the High Court of Madhya Pradesh at Jabalpur (briefly 'the High Court' hereinafter) dismissing Writ Petition No.29710/2024 filed by the appellant through his father assailing the order of preventive detention dated 11.07.2024 passed by the District Magistrate, Betul under Section 3(2) of the National Security Act, 1980 (referred to hereinafter as 'the National Security Act'), which order was extended thereafter; the period of the last extension expiring on 12.07.2025.

4. Appellant is a student of law and is aged about 24 years. According to him, he had raised his voice against the inappropriate behaviour of a professor towards a female student belonging to the Scheduled Castes. The said professor, using his influence as a community leader, not only assaulted the appellant but also got Crime No.236/2024 registered against the appellant at Police Station Ganj, District-Betul in the State of Madhya Pradesh under Sections 307/353/333/147/148/149/506 of the Indian Penal Code, 1860 (IPC).

4.1. It is stated that the appellant himself surrendered before the concerned police station on 16.06.2024 on and from which date he was taken into custody.

5. Station House Officer of Police Station Ganj (respondent No.5)

submitted a note to the Superintendent of Police, Betul (respondent No.4) on 25.06.2024 recommending that action of preventive detention should be taken against the appellant. On the basis of the aforesaid note, respondent No.4 submitted his detailed note to the Collector-cum-District Magistrate, Betul (respondent No.3) on 03.07.2024 recommending that the appellant be taken into preventive detention.

6. Respondent No.3 thereafter initiated proceeding on 11.07.2024 that action against the appellant under Section 3(2) of the National Security Act would be appropriate so as to prevent him from acting in any manner contrary to maintenance of peace and law and order. Grounds for detention were enumerated separately on the same date i.e. on 11.07.2024. Finally, respondent No.3 passed the order dated 11.07.2024 under Section 3(2) of the National Security Act ordering that the appellant be detained and kept in Central Jail, Bhopal. The said order indicated that the appellant had the right to make a representation before the District Magistrate, State Government, Advisory Board and Central Government (Ministry of Home Affairs), New Delhi.

7. The order of preventive detention along with the grounds for detention were served on the appellant on 12.07.2024. Thereafter, on 13.07.2024, respondent No.3 sent a copy of the order of preventive

detention along with the grounds for detention as well as a copy of the acknowledgement of receipt of the detention order along with the grounds by the appellant to the Secretary to the Government of Madhya Pradesh, Department of Home and Internal Affairs (respondent No.2) for confirmation. On 19.07.2024, the State Government approved the order of preventive detention exercising powers under Section 3(4) of the National Security Act. State Government, in turn, as per the requirement of Section 3(5) of the National Security Act, informed the Union of India through the Secretary to the Government of India, Ministry of Home Affairs (Department of Internal Security) (respondent No.1) on 19.07.2024 about the order of preventive detention passed against the appellant, as approved by the State Government.

8. Appellant submitted a representation against the order of preventive detention to respondent No.3 on 22.07.2024 primarily alleging misuse of the National Security Act as well as procedural lapses. Appellant pointed out that he was already lodged in Central Jail, Bhopal since 16.06.2024 when the order of preventive detention was served on him on 12.07.2024. However, on 29.07.2024, respondent No.3 rejected the representation of the appellant.

9. State Government passed an order on 10.08.2024 stating that an Advisory Board was constituted under Section 9 of the National Security Act. Advisory Board had opined that there were sufficient causes for taking the appellant into preventive detention. Thereafter, exercising powers under Section 12(1) of the National Security Act, State Government confirmed the order of preventive detention of the appellant.

10. Appellant through his next friend i.e. his father filed a writ petition before the High Court being WP No.29710/2024 assailing the order of preventive detention.

11. It may be mentioned that State Government *vide* the order dated 10.10.2024 extended the period of preventive detention of the appellant by three months from 12.10.2024 to 12.01.2025. This was followed by another order dated 03.01.2025 extending the period of preventive detention of the appellant by another three months from 12.01.2025 to 12.04.2025.

12. It may be mentioned that appellant was granted bail by the competent criminal court in connection with Crime No.236/2024 on 28.01.2025. However, appellant continued to remain in custody solely on account of the order of preventive detention.

13. High Court *vide* the judgment and order dated 25.02.2025 dismissed the writ petition. Respondents were given liberty to proceed against the appellant as per law.

14. Thereafter, period of detention of the appellant was further extended by the State Government from 12.04.2025 to 12.07.2025.

15. Aggrieved, the related Special Leave Petition was filed.

16. On 20.06.2025, this Court upon considering the submission that the term of extended detention would expire on 12.07.2025, issued urgent notice making it returnable on 27.06.2025.

17. Counter affidavit on behalf of respondent Nos.2 to 5 was filed on 25.06.2025.

18. The matter was heard on 27.06.2025 on which date leave was granted. After arriving at the definite conclusion that the order of detention as extended from time to time was wholly untenable, we interfered with the same. The order of detention, as extended, was quashed and the appellant was directed to be released from custody forthwith. As noted above, we also deemed it appropriate to pass a reasoned order.

19. Learned counsel for the appellant contended that appellant was

already in jail at the time of passing of the order of preventive detention. He submitted that there was no justification at all for taking the appellant into preventive custody. Learned counsel submitted that out of the nine criminal proceedings cited against the appellant, including the present one, appellant was acquitted in five cases; two cases are still pending but in those two cases, appellant is on bail; in the eighth case, though the appellant was convicted, the sentence was only imposition of fine. In so far the present criminal case (being Crime No.236/2024) is concerned, appellant was granted bail on 28.01.2025.

19.1. Learned counsel for the appellant submitted that all the above cases involve alleged incidents of simple assault and criminal intimidation. Those cases have no proximity to the order of preventive detention and therefore could not have formed the basis of preventive detention.

19.2. Additionally, learned counsel submitted that there was total non-application of mind by the detaining authority while passing the order of preventive detention as well as while rejecting the representation of the appellant. Extension of the order of preventive detention, on three occasions, was totally uncalled for.

19.3. He submitted that based on the so-called criminal antecedents

of the appellant, by no stretch of imagination could it be said that the appellant who was already in custody could be a threat to public order.

19.4. Final submission of learned counsel for the appellant is that it was respondent No.3 who had passed the order of preventive detention. He ought not to have taken it upon himself to reject the representation of the appellant. Referring to Section 8 of the National Security Act, he submitted that the representation of the appellant ought to have been forwarded to and considered by the appropriate Government; in this case, by the State Government.

20. *Per contra*, learned counsel appearing for respondent Nos.2 to 5 submitted that the High Court after examining the entire material on record including the detention order, grounds for detention, representation of the appellant and its rejection has rightly upheld the order of preventive detention.

20.1. He submitted that appellant is a history-sheeter with criminal antecedents. He has the potential to disturb public order. On 14.06.2024, appellant allegedly assaulted a college professor during working hours inside a public educational institution, which not only disrupted academic activity but caused widespread panic.

20.2. He submitted that the detaining authority was conscious of the

fact that appellant was in judicial custody on the date of the detention order dated 11.07.2024. But this did not preclude him from forming a reasonable satisfaction that there existed a credible likelihood of the appellant securing bail in the regular criminal proceeding in the ordinary course whereafter appellant was likely to again indulge in activities prejudicial to public order, given his violent history.

20.3. According to him, respondent No.3 was well within his jurisdiction to consider and reject the representation of the appellant. He had applied his mind to all the relevant factors before rejecting the representation. State Government as well as the Advisory Board had confirmed the preventive detention of the appellant. He further submitted that not only the initial order of preventive detention was fully justified, the extensions given thereto were valid and lawful. There is no reason to interfere with the impugned judgment and order of the High Court.

21. Submissions made by learned counsel for the parties have received the due consideration of the Court.

22. Article 22 of the Constitution of India has got two parts. Part I comprises of clauses (1) and (2). It deals with protection against arrest and detention. Clause (3) says that the protections contained in clauses (1) and (2) would not apply to an enemy alien or to any person

who is arrested or detained under any law providing for preventive detention. Then comes the second part of Article 22 comprising of clauses (4) to (7). This part deals with preventive detention. Article 22(4) to Article 22(7) dealing with preventive detention reads thus:

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—
 (a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the

provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

22.1. From a perusal of the aforesaid provisions, what is clear is that preventive detention of a person shall not be for more than three months unless the Advisory Board comprising of persons who are or have been or are qualified to be appointed as judges of the High Court has opined before expiry of the period of three months that there is sufficient cause to extend such preventive detention. The authority making the order of preventive detention shall communicate to the detainee the grounds on which the order of preventive detention has been made and shall afford him the earliest opportunity of making a representation against the order of preventive detention. It is also provided that Parliament may make law providing for preventive detention of a person for a period longer than three months etc. and also the maximum period for which any person may be kept under preventive detention.

23. Parliament has enacted the National Security Act. The Statement of Objects and Reasons indicate that the National Security Act was enacted considering the complexity and nature of the problems faced

by the country, such as, communal disharmony, social tensions, extremist activities, industrial unrest and increasing tendency on the part of various interested parties to engineer agitation on different issues, keeping in mind the need to maintain defence, security, public order and services essential to the community. Government felt that the administration would be greatly hampered in effectively dealing with the above problems in the absence of powers of preventive detention. Hence, the National Security Act.

23.1. Section 3 of the National Security Act is relevant. It deals with the power to make orders detaining certain persons. Sub-Section (2) of Section 3 being central to the *lis* is extracted hereunder:

3. Power to make orders detaining persons –

(1) ***

(2) The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained.

23.2. A careful analysis of Sub-Section (2) of Section 3 would indicate that the Central Government or the State Government must be satisfied with respect to a person that it is necessary to prevent him from acting in any manner prejudicial to the security of the State or

from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community. Based on such satisfaction, it may make an order that such person be detained. Thus, a person can be taken into preventive detention if his activities are in any manner prejudicial to the following:

1. Security of the State,
2. Maintenance of public order, and
3. Maintenance of supplies and services essential to the community.

23.3. As per Section 8, the authority making an order of preventive detention shall as soon as may be but ordinarily not later than five days and in exceptional circumstances (that too for reasons to be recorded in writing) not later than ten days from the date of detention, communicate to the detenu the grounds on which the order of preventive detention has been made. The detenu shall be afforded the earliest opportunity to make a representation against the order of preventive detention to the appropriate Government. It may be mentioned that as per Section 5A, the grounds of detention are severable. It means that if one of the grounds is found to be invalid or inoperative that would not invalidate the order of preventive detention

if the same can be sustained on the other grounds.

23.4 Sections 9 to 12 deal with Advisory Board.

23.5. Section 13 of the National Security Act provides that the maximum period for which any person may be detained in pursuance of an order of preventive detention, as confirmed, shall be 12 months from the date of detention. However, the proviso clarifies that such maximum period shall not affect the power of the appropriate Government to revoke or modify the detention order at an earlier point of time.

24. Having surveyed the relevant legal provisions, we may now advert to the proceedings of preventive detention dated 11.07.2024, the grounds for detention dated 11.07.2024 and the order of preventive detention dated 11.07.2024. The proceedings indicate that considering the criminal antecedents of the appellant, in order to maintain peace and law and order and to create a fear-free atmosphere amongst the people, action against the non-applicant i.e. the appellant herein under Section 3(2) of the National Security Act would be appropriate. Therefore, the detaining authority came to the following conclusion:

Therefore, on the basis of the discussion of clauses 3 and 4 as above, it has become necessary to take the non-applicant Annu alias Aniket S/o Kripal Singh Thakur, age 24 years, resident of Chunnidhana, Thana Ganj, Betul, District Betul, into custody under Section 3(2) of

the National Security Act, 1980 with the intention of preventing him from acting in any manner contrary to the maintenance of peace and law and order under which sub-section (2) of Section 3 of the said Act and order number F 31-05-1998-II-C-I Bhopal dated 25th June 2024 of the Government of Madhya Pradesh, Home Department, the non-applicant Annu alias Aniket S/o Kripal Singh Thakur, age 24 years, resident of Chunnidhana, Thana Ganj, Betul, District Betul (MP) is ordered to be detained and kept in Central Jail, Bhopal.

25. In so far the grounds for detention of the appellant is concerned, it is evident that the appellant was taken into preventive detention as the detaining authority was of the view that though the appellant was imprisoned in jail, he could create an atmosphere of disturbance and terror in the area after coming out of jail. Therefore, it had become necessary to curb the criminal activities of the appellant and maintain peace and law and order in the area. Operative portion of the grounds reads thus:

4. In view of the above circumstances, in order to maintain peace and tranquility in the area and to create a fear-free atmosphere among the public, action against the non-applicant under Section 3(2) of National Security Act, 1980 is appropriate and in accordance with the provisions of the Act the only option left is to detain the non-applicant under the powers conferred by the Act.

5. Therefore, on the basis of investigation as above, it has become necessary to take the non-applicant Annu alias Aniket S/o Kripal Singh Thakur, age 24 years, resident of Chunnidhana, Police Station

Ganj, Betul, District Betul, into custody under section 3(2) of the National Security Act, 1980 with the intention of preventing him from acting in any manner contrary to the maintenance of law and order under sub-section (2) of Section 3 of the said Act and order number F 31-05-1998-2-C-1 Bhopal dated 25 June 2024 of the Government of Madhya Pradesh, Home Department, the non-applicant has been detained and passed an order to be kept in Central Jail, Bhopal.

26. Finally, in the order of preventive detention, the detaining authority i.e. respondent No.3 stated that he was satisfied that it had become necessary to take the non-applicant i.e. the appellant herein into custody under Section 3(2) of the National Security Act with the intent to prevent him from doing any act prejudicial to the maintenance of law and order. Relevant portion of the order dated 11.07.2024 reads as under:

I, Narendra Kumar Suryavanshi, District Magistrate, District Betul (MP), on the basis of the report No. PU.A / Betul / Reader /NSA /16 /2024 dated 03.07.2024 submitted by the Superintendent of Police, Betul and the statement presented by the Police Station incharge, Ganj, Betul, I am satisfied that it has become necessary to take the non-applicant Annu @ Aniket S/o Kripal Singh Thakur, resident of Chunnidhana, Thana Ganj, Betul, District Betul (MP) into custody under Section 3(2) of the National Security Act, 1980 with the intent to prevent him from doing any act prejudicial to the maintenance of law and order.

26.1. From a careful analysis of the related proceedings, grounds for detention and the order of preventive detention, it is evident that the appellant was taken into preventive detention with the intent to

prevent him from doing any act prejudicial to the maintenance of law and order.

27. Even while rejecting the representation of the appellant, respondent No.3 was quite categorical in declaring that Section 3(2) of the National Security Act was invoked against the appellant to maintain peace and law and order in the area and to create a fear-free environment amongst the public. Appellant was thus taken into custody with the intent to prevent him from acting in any manner prejudicial to the maintenance of law and order. This has been the consistent stand of respondent No.3.

28. We have already analysed above the conditions precedent for invoking the power under Sub-Section (2) of Section 3 of the National Security Act. A person can be taken into preventive detention to prevent him from acting in any manner prejudicial to the maintenance of public order (as security of the State or maintenance of supplies and services essential to the community are not attracted in the present case).

29. Requirement under Sub-Section (2) of Section 3 of the National Security Act is maintenance of public order whereas from the order of preventive detention, it is clear that appellant has been taken into

preventive detention with the intent to prevent him from acting in any manner prejudicial to the maintenance of law and order.

30. Question for consideration is as to whether maintenance of law and order and maintenance of public order is one and the same?

31. The answer to the above question is no longer *res integra*.

32. A Constitution Bench of this Court in **Ram Manohar Lohia Vs. State of Bihar, 1965 SCC Online SCC 9**, delineated the difference between 'law and order' and 'public order' in the following manner:

54. ...Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order, but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the public order are. ...

55. It will thus appear that just as "public order" in the rulings of this

Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State.

32.1. This Court was quite clear in declaring that every breach of peace does not lead to public disorder. For public disorder, it must affect the community or the public at large. Highlighting the distinction, this Court observed that law and order is a larger circle within which there is a smaller circle representing public order. Within the circle of public order, smallest circle represents the security of the State. Therefore, an act may affect law and order but not necessarily public order.

33. This issue again came up for consideration before this Court in **Pushkar Mukherjee Vs. State of West Bengal, (1969) 1 SCC 10**. In that case, this Court discussed the distinction between 'law and order' on the one hand and 'public order' on the other hand and held thus:

13. ...Does the expression "public order" take in every kind of infraction of order or only some categories thereof. It is manifest that every act of assault or injury to specific persons does not lead to public disorder. When two people quarrel and fight and assault each

other inside a house or in a street, it may be said that there is disorder but not public disorder. Such cases are dealt with under the powers vested in the executive authorities under the provisions of ordinary criminal law but the culprits cannot be detained on the ground that they were disturbing public order. The contravention of any law always affects order but before it can be said to affect public order, it must affect the community or the public at large. In this connection we must draw a line of demarcation between serious and aggravated forms of disorder which directly affect the community or injure the public interest and the relatively minor breaches of peace of a purely local significance which primarily injure specific individuals and only in a secondary sense public interest. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Preventive Detention Act but a disturbance which will affect public order comes within the scope of the Act. ...

33.1. Thus, this Court explained that while contravention of any law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is not a sufficient reason for action under the preventive detention law.

34. This position was further clarified by this Court in **Arun Ghosh Vs. State of West Bengal, (1970) 1 SCC 98**, in which this Court held as under:

3.... Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality.

Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. ... It is always a question of degree of the harm and its effect upon the community. ... This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another.

34.1. This Court explained that disturbance of public order is to be distinguished from acts directed against individuals. The act must disturb public order affecting the even tempo of life of the community. Then only the question of taking action under the preventive detention law would arise.

35. A recent three Judge Bench judgment of this Court in **Nenavath Bujji Vs. State of Telangana, 2024 SCC Online SC 367**, also analysed the distinction between 'law and order' and 'public order' and has held as follows:

32. The crucial issue is whether the activities of the detenu were prejudicial to public order. While the expression 'law and order' is wider in scope inasmuch as contravention of law always affects order, 'Public order' has a narrower ambit, and could be affected by only such contravention, which affects the community or the public at large. Public order is the even tempo of life of the community taking the country as a whole or even a specified locality. The distinction

between the areas of 'law and order' and 'public order' is one of degree and extent of the reach, of the act in question on society. It is the potentiality of the act to disturb the even tempo of life of the community which makes it prejudicial to the maintenance of the public order. If a contravention in its effect is confined only to a few individuals directly involved as distinct from a wide spectrum of public, it could raise problem of law and order only. In other words, the true distinction between the areas of law and order and public order lies not merely in the nature or quality of the act, but in the degree and extent of its reach upon society. Acts similar in nature, but committed in different contexts and circumstances, might cause different reactions. In one case it might affect specific individuals only and therefore touches the problem of law and order only, while in another it might affect public order. The act by itself, therefore, is not determinant of its own gravity. In its quality it may not differ from other similar acts, but in its potentiality, that is, in its impact on society, it may be very different. [See: *Union of India v. Amrit Lal Manchanda*, (2004) 3 SCC 75.]

36. Thus, it is now clear that public order has a narrower ambit and could be affected by only such contravention which affects the community or the public at large. Public order is the even tempo of life of the community taking the country as a whole or even a specified locality. It is the potentiality of the act to disturb the even tempo of life of the community which makes it prejudicial to the maintenance of public order. If a contravention in its effect is confined only to a few individuals directly involved as distinct from a wide spectrum of

public, it would be an issue of law and order only.

37. In **Nenavath Bujji** (supra), this Court summed up the relevant considerations to be taken into account by the detaining authority to arrive at a subjective satisfaction of the need for an order of preventive detention and the scope of judicial review. This Court held thus:

43. We summarize our conclusions as under: -

(i) The detaining authority should take into consideration only relevant and vital material to arrive at the requisite subjective satisfaction,

(ii) It is an unwritten law, constitutional and administrative, that wherever a decision-making function is entrusted to the subjective satisfaction of the statutory functionary, there is an implicit duty to apply his mind to the pertinent and proximate matters and eschew those which are irrelevant & remote,

(iii) There can be no dispute about the settled proposition that the detention order requires subjective satisfaction of the detaining authority which, ordinarily, cannot be questioned by the court for insufficiency of material. Nonetheless, if the detaining authority does not consider relevant circumstances or considers wholly unnecessary, immaterial and irrelevant circumstances, then such subjective satisfaction would be vitiated,

(iv) In quashing the order of detention, the Court does not sit in judgment over the correctness of the subjective satisfaction. The anxiety of the Court should be to ascertain as to whether the decision-making process for reaching the subjective satisfaction is based on objective facts or influenced by any caprice, malice or irrelevant considerations or non-application of mind,

(v) While making a detention order, the authority should arrive at a proper satisfaction which should be reflected clearly, and in categorical terms, in the order of detention,

(vi) The satisfaction cannot be inferred by mere statement in the order that “it was necessary to prevent the detenu from acting in a manner prejudicial to the maintenance of public order”. Rather the detaining authority will have to justify the detention order from the material that existed before him and the process of considering the said material should be reflected in the order of detention while expressing its satisfaction,

(vii) Inability on the part of the state’s police machinery to tackle the law and order situation should not be an excuse to invoke the jurisdiction of preventive detention,

(viii) Justification for such an order should exist in the ground(s) furnished to the detenu to reinforce the order of detention. It cannot be explained by reason(s) / grounds(s) not furnished to the detenu. The decision of the authority must be the natural culmination of the application of mind to the relevant and material facts available on the record, and

(ix) To arrive at a proper satisfaction warranting an order of preventive detention, the detaining authority must, first examine the material adduced against the prospective detenu to satisfy itself whether his conduct or antecedent(s) reflect that he has been acting in a manner prejudicial to the maintenance of public order and, second, if the aforesaid satisfaction is arrived at, it must further consider whether it is likely that the said person would act in a manner prejudicial to the public order in near future unless he is prevented from doing so by passing an order of detention . For passing a detention order based on subjective satisfaction, the answer of the aforesaid aspects and points

must be against the prospective detenu. The absence of application of mind to the pertinent and proximate material and vital matters would show lack of statutory satisfaction on the part of the detaining authority.

37.1. Thus, in **Nenavath Bujji** (supra), this Court highlighted that inability on the part of the police machinery to tackle a law and order situation should not be an excuse to invoke the jurisdiction of preventive detention.

38. At this stage, we may also usefully refer to another recent decision of a coordinate Bench of this Court in **Ameena Begum Vs. State of Telangana, (2023) 9 SCC 587**. In that case also the Bench observed that a detenu's criminal antecedents or his habituality of committing offences cannot, in isolation, be the sole basis of an order of preventive detention. Merely because a detenu was charged for committing multiple offences, it cannot be said that he was in the habit of committing such offence.

39. On the touchstone of the proposition of law laid down by this Court through the above decisions, when we examine the order of preventive detention in the instant case as well as the order rejecting the representation of the appellant against the preventive detention, it is evident that the detaining authority was solely guided by the criminal antecedents of the appellant and thereafter formed the

satisfaction that the appellant was in the habit of committing such offences. Consequently, the power of preventive detention was invoked. We have already noted above that as against nine criminal proceedings against the appellant, including the present one, he has been acquitted in five cases. Two proceeding are still pending but in those proceedings, appellant is on bail. Only in one proceeding, appellant was convicted but the sentence was only imposition of fine. In so far the present criminal case (being Crime No.236/2024) is concerned, appellant was granted bail on 28.01.2025.

40. Viewed in the above conspectus of facts and law, it is clear that there was non-application of mind by respondent No.3 as to the requirement of preventive detention *qua* the appellant. The entire intent appears to continue the detention of the appellant since he was likely to get bail in the criminal case, which, in fact, he got. Such non-application of mind to the material facts and taking of extraneous factors into consideration has completely vitiated the order of preventive detention as well as the order rejecting the representation.

41. We are afraid; the High Court failed to take note of such glaring omissions on the part of the detaining authority. Instead, it appears that the High Court was more keen to put its stamp of approval to the order of preventive detention giving liberty to the respondents to

proceed against the detenu, which was totally uncalled for.

42. More than four decades ago, a three Judge Bench of this Court in **Vijay Narain Singh Vs. State of Bihar, (1984) 3 SCC 14**, had sounded a note of caution that preventive detention is not intended for the purpose of keeping a man under detention when under regular criminal law, it may not be possible to resist bail. When a person is enlarged on bail by a competent criminal court, great caution should be exercised in scrutinizing the validity of an order of preventive detention which is based on the very same charge to be tried by the competent criminal court.

43. Preventive detention of a person is a drastic measure. An order of preventive detention has the effect of invading a person's personal liberty. Therefore, the detaining authority should exercise utmost care and caution while invoking such a draconian provision.

44. Preventive detention being a hard law, it is axiomatic that an order of preventive detention should be strictly construed. It is the duty of a constitutional court like the High Court to minutely scrutinize an order of preventive detention to ensure that the order of preventive detention squarely falls within the four corners of the relevant law and that the liberty of a person is not unlawfully compromised.

45. Thus, having regard to the discussions made above, we are of the unhesitant view that the impugned judgment and order of the High Court as well as the order of preventive detention, as extended, are wholly untenable in law as well as on facts and are thus liable to be set aside.

46. Accordingly, we set aside and quash the impugned judgment and order of the High Court dated 25.02.2025 and the order of preventive detention dated 11.07.2024 as well as all the orders extending the preventive detention of the appellant.

47. Consequently, the appeal is allowed. There shall, however, be no order as to costs.

.....**J.**
[UJJAL BHUYAN]

.....**J.**
[K. VINOD CHANDRAN]

**NEW DELHI;
JUNE 27, 2025.**

ITEM NO.40

COURT NO.12

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 9285/2025

[Arising out of impugned final judgment and order dated 25-02-2025 in WP No. 29710/2024 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

**ANNU @ ANIKET THROUGH HIS FATHER AS
NEXT FRIEND KRUPAL SINGH THAKUR**

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

IA No. 144979/2025 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS, IA No. 144977/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 144978/2025 - EXEMPTION FROM FILING O.T.

Date : 27-06-2025/16-07-2025

**CORAM : HON'BLE MR. JUSTICE UJJAL BHUYAN
HON'BLE MR. JUSTICE K. VINOD CHANDRAN
[PARTIAL COURT WORKING DAYS BENCH]**

**For Petitioner(s) : Mr. Animesh Kumar, AOR
Dr. Sumit Kumar, Adv.
Mr. Keshav Baheti, Adv.
Ms. Aanchal Maheshwari, Adv.
Mr. Pranay Shukla, Adv.
Mr. Priyanshu Khare, Adv.**

**For Respondent(s) : Mr. Piyush Beriwal, Adv.
Mr. Akshay Beriwal, Adv.
Mr. Amit Sharma, Adv.

Mr. Abhimanyu Singh, Adv.
Mr. Rajan Chaurasia, Adv.
Mr. Jagdish Trivedi, Adv.
Ms. Mrinal Gopal Elker, AOR**

**UPON hearing the counsel the Court made the following
O R D E R**

The operative portion of the order dated 27.06.2025 is reproduced as follows :-

"Thus, looking into the facts and circumstances of the case, we direct that the appellant, who is presently lodged in the Central Jail at Bhopal, shall be released forthwith from custody, if not required in any other criminal case.

In view of above, the criminal appeal is disposed of.

Reasoned order will follow."

The appeal is allowed in terms of the signed reasoned order, which is uploaded today i.e. on 16.07.2025.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(PREETI SAXENA)
COURT MASTER

(Signed order is placed on the file)

URGENT

ITEM NO.40

COURT NO.12

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 9285/2025

[Arising out of impugned final judgment and order dated 25-02-2025 in WP No. 29710/2024 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

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VERSUS

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Date : 27-06-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE UJJAL BHUYAN
HON'BLE MR. JUSTICE K. VINOD CHANDRAN
[PARTIAL COURT WORKING DAYS BENCH]

For Petitioner(s) : Mr. Animesh Kumar, AOR
Dr. Sumit Kumar, Adv.
Mr. Keshav Baheti, Adv.
Ms. Aanchal Maheshwari, Adv.
Mr. Pranay Shukla, Adv.
Mr. Priyanshu Khare, Adv.

For Respondent(s) : Mr. Piyush Beriwal, Adv.
Mr. Akshay Beriwal, Adv.
Mr. Amit Sharma, Adv.

Mr. Abhimanyu Singh, Adv.
Mr. Rajan Chaurasia, Adv.
Mr. Jagdish Trivedi, Adv.
Ms. Mrinal Gopal Elker, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have heard Mr. Animesh Kumar, learned counsel for the petitioner and Mr. Piyush Beriwal, learned counsel appearing for

the Union of India. We have also heard Mr. Abhimanyu Singh and Mr. Rajan Chaurasia, learned counsel appearing for the State of Madhya Pradesh.

Leave granted.

Appellant, who is a student of Law, was taken into preventive detention vide order dated 11.07.2024 passed by the District Magistrate, Betul in the State of Madhya Pradesh. It is submitted that this detention order has been extended on four occasions and as per the last extension order, appellant's preventive detention is upto 12.07.2025.

On 20.06.2025, we had issued urgent notice to the respondents. Pursuant thereto, counter affidavit has been filed on behalf of Respondent Nos. 2 to 5.

We find from the materials on record that 09 criminal antecedents, including the present criminal case, have been cited against the appellant to justify the preventive detention under Section 3(2) of the National Security Act, 1980. During the course of hearing, learned counsel for the appellant has submitted that out of the previous 08 cases, appellant has been acquitted in 05 cases. In one case, he has been convicted, but sentence is only imposition of fine. Remaining 02 cases are presently pending, in which he is on bail.

Paragraph 16 of the counter affidavit indicates that in the present criminal case, being Crime No. 236 of 2024, appellant has been granted bail on 28.01.2025. The scenario, which thus emerges, is that the appellant continues to remain in custody only by virtue of the order of preventive detention. It is averred that the

appellant is lodged in Central Jail, Bhopal.

After perusal of the first detention order dated 11.07.2024, we find that the appellant has been taken into preventive detention under Section 3(2) of the National Security Act, 1980. However, we are of the view that the reasons for which he has been taken into preventive detention does not satisfy the requirement of Sub-Section(2) of Section 3 of the National Security Act, 1980. Preventive detention of the appellant, therefore, becomes wholly untenable.

However, we intend to pass a reasoned order in this regard.

That apart, the preventive detention has also become untenable for other grounds as well, such as representation of the appellant being decided by the District Collector himself, without forwarding it to the State Government and also not taken into account the factum of appellant's detention in other criminal cases and as to why he was required to be taken into preventive detention, in spite of being detained in a regular criminal proceeding.

As indicated above, a detailed reasoned order is required.

Thus, looking into the facts and circumstances of the case, we direct that the appellant, who is presently lodged in the Central Jail at Bhopal, shall be released forthwith from custody, if not required in any other criminal case.

In view of above, the criminal appeal is disposed of.

Reasoned order will follow.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(PREETI SAXENA)
COURT MASTER