



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.WP No.31 of 2025
Decided on : 26.02.2026

Ankush Thakur ...Petitioner

Versus

The State of HP and Others ...Respondents.

Coram

Hon’ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon’ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Kulwant Singh Gill, Advocate.

For the respondent(s) : Mr. Gobind Korla, Additional Advocate General, for the respondents/State.

G.S. Sandhawalia, Chief Justice (Oral)

By way of the present petition, challenge has been laid to the order of detention passed on 06.12.2025 (Annexure-P-1), whereby on account of two FIRs under the NDPS Act, the respondents had directed that detention be made of the petitioner for a period of three months, while exercising power under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (PITNDPS), 1988.

2. The reason made by the detaining authority was on the basis of the proposal given by the Superintendent of

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes

Police, Solan, HP on 19.11.2025/04.12.2025 (AnnexureR1/2).

Resultantly the detaining authority apparently accepted the proposal and passed the order by coming to the conclusion that two FIRs were lodged against the petitioner and the petitioner was a habitual offender and a notorious drug dealer and has refused to change his ways and preventive detention would have serious impact in reducing the drug consumption and drug related crimes.

3. As per the source report and the proposal, he was still stated to be actively involved in trafficking of NDPS substance.

4. Learned counsel for the petitioner has brought to our notice that the FIR in question was lodged way back and after the second FIR also in which his involvement was there, heroin/chitta was of intermediate quantity and there was a time gap of over one and half year in passing the detention order, as the second FIR was lodged on 02.03.2024.

5. Learned counsel for the petitioner further submitted that the detaining authority, as such, did not apply its mind to this fact and only repeated the proposal of the Superintendent of Police and on that ground the detention

order is liable to be quashed. The details of the FIR against the petitioner read as under:-

Sr. No.	FIR and PS	Sections
1.	FIR No.30/23 dated 31.07.2023, PS New Shimla, District Shimla HP.	Sections 21 and 29 of NDPS Act 5.35 grams of heroin/chitta
2.	FIR No.36/24 dated 02.03.2024, PS Sadar Solan, District Solan, HP	Sections 21 and 29 of NDPS Act 13.63 grams of heroin/chitta

6. The proposal and source report of the Superintendent of Police would go on to show that the petitioner was still indulging in the activities of drug trafficking and there was a live link. However, the record is to the contrary, as apparently no FIR was lodged after March, 2024, till the order of the detention was passed on 06.12.2025, which was substantially a long period.

7. In such circumstances, reliance has been placed on **Mortuza Hussain Choudhary Vs. State of Nagaland and Others, 2025 SCC Online SC 502**, and the same is well justified. The relevant portion regarding the aspect of the application of mind by the detaining authority has been highlighted in the said judgment. The relevant paragraphs read as under:-

"16. Lastly, the material placed on record reflects that the detaining authority, viz., the Special Secretary, Home Department, Government of Nagaland, did not even make separate grounds of detention but merely acted upon the proposals for detention forwarded to her by the Additional Director General of Police (Administration), Nagaland. The cryptic orders of detention passed by her on 30.05.2024 merely recorded that she was satisfied, on careful examination of such proposals and other supporting documents, that sufficient grounds were made out for the detention of Ashraf Hussain Choudhary and Adaliu Chawang. This is not in keeping with the statutory scheme, inasmuch as Section 6 of the Act of 1988 specifically refers to the order of detention 'being made' on separate grounds. Further, Section 3(1) also records that the authorized officer, be it of the Central Government or of a State Government, must be 'satisfied' that the person concerned required to be detained so as to prevent him/her from engaging in illicit trafficking of narcotic drugs and psychotropic substances. Such 'satisfaction' of the detaining authority necessarily has to be spelt out after application of mind by way of separate grounds of detention made by the detaining authority itself and cannot be by inference from a casual reference to the material placed before such detaining authority or a bald recital to the effect that the detaining authority was 'satisfied on examination of the proposals and supporting documents' that the detention of the individuals concerned was necessary.

17. On the aforestated analysis, we hold that the Gauhati High Court erred in the application of settled

legal norms while testing the validity of the impugned detention orders. The common judgement dated 29.08.2024 passed by the Gauhati High Court dismissing the two writ petitions is accordingly set aside and the appeals are allowed.

In consequence, the detention orders dated 30.05.2024 passed by the Special Secretary, Home Department, Government of Nagaland, confirmed and continued thereafter by way of extension orders, shall stand quashed. The detenus, Ashraf Hussain Choudhary and Adaliu Chawang, shall be set at liberty forthwith, unless their continued incarceration is warranted in connection with any other case."

8. Keeping in view the above, we are of the considered opinion that the case has been made out for quashing the detention order on account of non-application of mind. Resultantly, the present petition is allowed and the detention order dated 06.12.2025 (Anexure P1) is quashed. The petitioner be set free, if not required in any other case.

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

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

26th February, 2026
(Gaurav Rawat)