



CWP-18054-2024 (O&M)

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

2024:PHHC:171783-DB



Civil Writ Petition No.18054 of 2024 (O&M)

Reserved on: 24.09.2024

Date of decision: 20th December, 2024

PARVEEN ALIAS DADA

..Petitioner

Versus

UNION OF INDIA AND ORS

..Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Siddharth Sihag, Advocate
Mr. Nitin Kadyan, Advocate
Ms. Sakshi Sharma, Advocate for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India
with Mr. Dheeraj Jain, Advocate (through v.c.)
for respondent-Union of India.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

* * * * *

SHEEL NAGU, CHIEF JUSTICE

1. This petition filed under Article 226/227 of the Constitution of India assails the order of preventive detention passed by District Magistrate, Rohtak, on 01.05.2024 (Annexure P-1) and all subsequent orders of State Government approving and extending the detention.



CONTENTS & CONTEXT

2. Several grounds in support of challenge to the aforesaid are made by learned counsel for petitioner, which are delineated below:-

- (i) The nature of offences registered against the petitioner are insufficient to give rise to a cause of breach of public order.
- (ii) The impugned order of preventive detention is passed in violation of Section 3(5) of National Security Act, 1980 (NSA for brevity) in as much as failure of State Government to forward the order of preventive detention together with its grounds to the Central Government within a period of seven days.
- (iii) The order of preventive detention is vitiated since no mind was applied to the fact that petitioner was already in custody when impugned order was passed.
- (iv) The impugned order does not pass the tests laid down by the decision of Apex Court in *Ameena Begum Vs. The State of Telangana and others, (2023) 9 SCC 587*.
- (v) There is no live and proximate link between proposal made by Superintendent of Police, Rohtak as early as on **05.03.2024** while the impugned order of preventive detention was passed by District Magistrate, Rohtak, as late as 01.05.2024.

3. Learned counsel for the rival parties are heard on the question of admission and final disposal.



3.1 The grounds demonstrated by State in support of impugned order of preventive detention are described below in a tabular illustration: -

Sr. No.	FIR No. & details	Brief case summary	Arrest Status
1	FIR No.55 dated 08.03.2023 u/s 148, 149, 307, 506, 120B IPC & Sec 25 & 27 Arms Act, PS Bahu Akbarpur, Rohtak.	Petitioner and co-accused Rahul along with 20-25 other people fired multiple bullets upon complainant Ashish.	Petitioner was arrested and granted bail by the Court. Next date is 16.01.2025 fixed for hearing.
2	FIR No.45 dt 14.02.2013 u/s 25 Arms Act PS Urban Estate, Rohtak.	HC Pardeep No.1582/RTK, STF Unit, Rohtak got an information from the sources that petitioner has an illegal weapon, on the information police party nabbed petitioner with 01 illegal weapon	Petitioner was convicted on 12.02.2015 by the Court of Sh. Manjeet Pal, JMIC Rohtak for a period of three years simple imprisonment.
3	FIR No.09 dt 05.01.2014 u/s 148/149/307 IPC & 25 Arms Act PS City Rohtak.	A group of men fired at the husband of the complainant due to dispute over a rented house. Petitioner was involved in firing bullets upon the victim. A country made pistol was recovered from petitioner.	Petitioner was convicted by the Court of Sh. Ashwani Kumar, ASJ, Rohtak on 30.08.2017 for a period of one-year rigorous imprisonment and Rs.two thousand fines.
4	FIR No.95 dt 25.02.2014 u/s 148/149/323/506 IPC, PS City, Rohtak.	Petitioner had beaten complainant while he was washing the car and threatened him to kill and fled away.	Petitioner was acquitted by the Court of Sh. Sanjeev Kajla, JMIC, Rohtak on 14.03.2019.
5	FIR No.169 dt 10.04.2015 u/s 147/149/323/341/506 IPC, PS City, Rohtak.	When the complainant was going towards his home, petitioner along with other 4/5 persons came and beat him and threatened to kill him.	Petitioner was convicted under Section 323, 341 IPC r/w Section 34 IPC on 09.10.2023 by the Court of Smt. Deepti, CJM, Rohtak.
6	FIR No.527 dt 04.09.2015 u/s 285/34 IPC & 25 Arms Act, PS City, Rohtak.	On 04.09.2015 police party received information from a source that petitioner Ishu and your associates and one other party from village Bohar fired bullets on each other and fled away in their cars.	Petitioner was arrested in the case. The case is under trial and the next date of hearing is 09.01.2025.



7	FIR No.189 dt 07.03.2016 u/s 307/34 IPC & 25 Arms Act, PS Barauda, Sonipat.	On 07.08.2016, complainant came at his liquor shop for cash collection. Kulbir Deshkheda along with his associates came to the liquor shop in a car and fired bullets upon him with an intention to murder him and ran away.	Petitioner arrested in this case and granted bail by the Court of Dr. Sanjeev Arya, ASJ, Sonapat on 05.09.2023 and next date is 12.02.2025 fixed for hearing.
8	FIR No.654 dt 01.10.2016 u/s 452/506 IPC & 25 Arms Act, PS City, Rohtak.	On 29.09.2016, petitioner along with his associates came to complainant's office with weapons and asked about him. On the very next day, he reached to the office, where Chand s/o Hoshiyar told him that petitioner along with his associates came to the office and threatened to kill him.	Petitioner was convicted by the Court of Sh. Bharat, JMIC, Rohtak on 21.09.2018.
9	FIR No.179 dt 06.10.2016 u/s 323/365/34 IPC, PS Lakhan Majra, Rohtak.	On 02.10.2016, complainant was present in his house. Petitioner Rohtash r/o Sanghi, Monty and Bijender s/o Ishwar r/o Nidana came to complainant's house in a car and asked him to go with them to settle his car issue. Thereafter petitioner blindfolded him and put him in the car trunk. On 06.10.2016, petitioner had thrown him outside his village.	The petitioner arrested but acquitted by the Court of Sh. Raj Kumar Yadav, ASJ, Rohtak on 15.09.2023.
10	FIR No.686 dt 14.10.2016 u/s 148/149/452/506 IPC & 25 Arms Act, PS City, Rohtak.	On 29.09.2016 at about 12 AM, petitioner, Rajkumar @ Shyamu, Maan singh, Ravi r/o Sanghi, Sunil s/o Balbir along with his associates had entered in complainant's house forcefully and threatened to kill her.	The petitioner arrested and convicted by the Court of Sh. Bharat, JMIC, Rohtak on 21.09.2018.
11	FIR No.156 dated 26.02.2017 u/s 25 Arms Act, PS City, Rohtak.	On 26.02.2017, accused Aakashdeep s/o Prem Kumar r/o Bagichi mohalla, Balmiki Chowk, Rohtak, Isho s/o Umed r/o Shyam Colony, Rohtak and Manish s/o Virender r/o Rajendera colony Rohtak were nabbed by the police party with illegal weapons. During the investigation it was	Arrested by acquitted of all charges by the Court of Sh. Amberdeep Singh, CJM, Fatehabad giving petitioner the benefit of doubt on 09.02.2023.



		revealed that the illegal weapons seized by the police were provided by petitioner.	
12	FIR No.768 dated 12.11.2017 u/s 174-A IPC, PS City, Rohtak.	This case was registered on the complaint of Sh. Sudhir Jakhar, PP Court of Sh. Yogesh Choudhary, JMIC, Rohtak, that during the trial of case FIR No.169/15 u/s 323/341/506/34 IPC PS City, Rohtak, petitioner and Ravi s/o Ajit had absconded.	Petitioner was convicted under Section 174-A IPC by the Court of Smt. Deepti, CJM Rohtak on 20.09.2023.
13	FIR No.345 dated 11.06.2018 u/s 148, 149, 321, 323 IPC, PS Shivaji Colony, Rohtak.	This case was registered on the complaint of Dharmbir Singh, Deputy Superintendent, District Jail, Rohtak against petitioner, Rahul s/o Jagdish r/o Khidwali and Dheeraj s/o Suresh r/o Dulhera, Rajbir s/o Krishan r/o Bhagwatipur for assaulting and injuring other inmates.	Petitioner arrested and granted bail by the Court of Sh. Aditya Singh Yadav, JMIC, Rohtak on 28.08.2023 and next date is 24.12.2024 fixed for hearing.
14	FIR No.361 dated 13.06.2018 u/s 174A IPC, PS City, Rohtak.	This case was registered on the complaint of Sh. Sudhir Jakhar, PP Court, Sh. Yogesh Choudhary, JMIC, Rohtak that petitioner and Ravi s/o Ajit had absconded	Petitioner convicted by the Court of Sh. Yogesh Choudhary, CJM Rohtak on 04.08.2018.
15	FIR No.161 dated 13.04.2019 u/s 386 IPC, PS Urban Estate, Rohtak.	This case was registered on the complaint of liquor contractor Jogender Singh r/o Rohtak that he received multiple threat calls from various unknown mobile numbers and the called introduced himself as Anil Chippi who asked him to quit the liquor contract. He suspected that the liquor contractor namely Ravinder Malik, Paramjet Tehlan, Jaibhagwan and Sony also involved in this matter.	Petitioner was arrested in the case and granted bail by the Court of Sh. Manglesh Kumar Choubey, ACJM, Rohtak on 20.12.2023 and next date is 24.12.2024 fixed for hearing.
16	FIR No.264 dated 18.04.2022 u/s 384, 506 IPC, PS Rohtak City.	Petitioner was an accomplice in this case of extortion and criminal intimidation to a property dealer.	Petitioner was acquitted by the Court of Smt. Deepti, CJM Rohtak on 04.12.2023.
17	FIR No.459 dated 01.07.2022 u/s 307, 34 IPC & 25 Arms	When the complainant in FIR No.264 dated 18.04.2022, PS Rohtak	Petitioner was arrested and granted bail by the Court of



	Act, PS City, Rohtak.	City, u/s 384, 506 IPC did not give the extortion amount, two masked men came to his house on a motorbike and incessantly fired at him.	Sh. Rakesh Kumar Yadav, Sessions Judge, Rohtak on 01.11.2022 and the case is adjourned for 15.01.2025.
18	FIR No.7 dated 04.01.2023 u/s 148, 149, 323, 506 IPC PS IMT, Rohtak.	On 04.01.2023, when the complainant was present on his plot, petitioner came there along with his associates and beat him and threatened him to kill.	Petitioner was arrested and granted bail by the Court of Smt. Deepti, CJM, Rohtak on 30.11.2023 and next date 17.02.2025 is fixed for hearing.
19	FIR No.115 dated 22.06.2023 u/s 25 Arms Act, PS Bahu Akbarpur, Rohtak.	On 22.06.2023, police party nabbed petitioner with 02 illegal weapons.	Petitioner was arrested and granted bail by the Court of Sh. Abhimanyu Rajput, JMIC, Rohtak on 03.10.2023 and next date is 21.04.2025.
20	FIR No.80 dated 08.03.2024 u/s 25 Arms Act, PS Special Cell, Delhi.	On 08.03.2024, police party nabbed petitioner with 01 pistol and 04 live cartridge.	Petitioner arrested and sent to judicial custody. Next date of hearing is 30.01.2025.

4. From the aforesaid details it reveals that out of 20 offences registered against petitioner, four ended in acquittal while in seven offences, the petitioner was convicted. The offences, which are still pending investigation/trial against the petitioner, are at Serial No.1, 6, 7, 13, 15, 17, 18, 19 and 20, in the aforesaid table.

5. The affidavit filed by District Magistrate, Rohtak, in response to the present petition lays emphasis on three offences registered against the petitioner i.e. FIR No.55, dated 08.03.2023, alleging offences punishable under Sections 148, 149, 506, 307, 120-B of IPC read with Section 25/27 of the Arms Act, 1959, FIR No.7, dated 04.01.2023, alleging offences punishable under Sections 148, 149, 323, 506 of IPC and FIR No.80 dated 08.03.2024, alleging offences punishable under Section 25 of the Arms Act, 1959, to justify the aura of fear and panic spread by the activities of petitioner while



committing these offences, which allegedly lead to break down of public order.

6. This Court is conscious of the law laid down by the Apex Court where a clear distinction has been made between breach of law and order on one hand and breach of public order on the other.

7. There are myriads of decisions of Apex Court for explaining the said distinction holding that the relevant factor to identify breach of public order is not the number of offences registered against the detainee but the repercussions entailing the antecedents which jeopardise public order rendering curtailment of right to liberty of proposed detainee, a dire necessity. Even a single incident may be enough to breach public order provided its consequences are enough to instil fear in the minds of the members of the general public thereby obliging the State/District Magistrate to invoke extraordinary powers of preventive detention.

8. This Court for convenience and ready reference extracts the relevant portions of various decisions of the Apex Court on the subtle but evident distinction between “law & orders” and “public order” as follows: -

- i) In ***Ram Manohar Lohia vs. State of Bihar and another 1996(1) SCR 709***, it has been held by the Constitution Bench of the Apex Court as follows: -

“51. We have here a case of detention under Rule 30 of the Defence of India Rules which permits apprehension and detention of a person likely to act in a manner prejudicial to the maintenance of public order. It follows that if such a person is not detained public disorder is the apprehended result. Disorder is no doubt prevented by the maintenance of law and order also but disorder is a broad spectrum which includes at one end small disturbances and at the other the most serious and cataclysmic happenings. Does the



expression "public order" take in every kind of disorder or only some? The answer to this serves to distinguish "public order" from "law and order" because the latter undoubtedly takes in all of them. 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. A District Magistrate is entitled to take action under Rule 30(1)(b) to prevent subversion of public order but not in aid of maintenance of law and order under ordinary circumstances.....(emphasis supplied)."

ii) In **Arun Ghosh vs. State of West Bengal, 1970(1) SCC 98**,

it has been held by the Apex Court as follows:-

"3. In [Dr. Ram Manohar Lohia's](#) case (supra), this Court pointed out the difference between maintenance of law and order and its disturbance and the maintenance of public order and its disturbance. 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. Take for instance, a man stabs another.(emphasis supplied)."



- iii) The aforesaid decision of the Apex Court in ***Dr. Ram Manohar Lohia's case (supra)***, was also relied upon by the Apex Court in a recent decision given in ***Mallada K.Sri Ram vs. State of Telangana and others, (2022) SCC Online SC 424.***"

9. The Constitution while recognizing the right to life and personal liberty under Article 21 of the Constitution of India prescribes curtailment of this right in exceptional circumstances by following due process of law as contained in Clause (4) of Article 22 of the Constitution of India which reads thus:-

"22. Protection against arrest and detention in certain cases:-

(1) xx xx xx

(2) xx xx xx

(3) xx xx xx

(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).***Editorial Comment** - Article 22 of the Indian Constitution provides certain safeguards regarding arrests and detentions. It aims to protect the rights and liberties of individuals who are arrested or detained by the authorities.”

10. From the aforesaid it is obvious that the concept of preventive detention is constitutionally permissible subject to fulfilment of certain conditions and following the procedures prescribed by law. The law promulgated by the Parliament relevant to the subject is the National Security Act, 1980 (for brevity ‘NSA’), which provides a detailed procedure to be followed, substantial breach of which can lead to vitiation of the order of preventive detention.

CONSIDERATION

11. In the light of the law laid down by the Apex Court, this Court needs to analyse the aforesaid five grounds of challenge made by the petitioner enumerated in paragraph-2 of this order (supra).

12. Taking up the first ground of the nature of offences registered against the petitioner being insufficient to give rise to a cause of breach of public order, it is seen from the reply of the respondent-State of Haryana that



there were 20 cases registered against the petitioner in about last 10 years in which the petitioner was convicted for the following offences:-

Sr. No.	FIR No. & details	Brief case summary	Arrest Status
1.	FIR No.45 dt 14.02.2013 u/s 25 Arms Act PS Urban Estate, Rohtak.	HC Pardeep No.1582/RTK, STF Unit, Rohtak got an information from the sources that petitioner has an illegal weapon, on the information police party nabbed petitioner with 01 illegal weapon	Petitioner was convicted on 12.02.2015 by the Court of Sh. Manjeet Pal, JMIC Rohtak for a period of three years simple imprisonment.
2	FIR No.09 dt 05.01.2014 u/s 148/149/307 IPC & 25 Arms Act PS City Rohtak.	A group of men fired at the husband of the complainant due to dispute over a rented house. Petitioner was involved in firing bullets upon the victim. A country made pistol was recovered from petitioner.	Petitioner was convicted by the Court of Sh. Ashwani Kumar, ASJ, Rohtak on 30.08.2017 for a period of one-year rigorous imprisonment and Rs. two thousand fines.
3.	FIR No.169 dt 10.04.2015 u/s 147/149/323/341/506 IPC, PS City, Rohtak.	When the complainant was going towards his home, petitioner along with other 4/5 persons came and beat him and threatened to kill him.	Petitioner was convicted under Section 323, 341 IPC r/w Section 34 IPC on 09.10.2023 by the Court of Smt. Deepti, CJM, Rohtak for imprisonment of 15 days and fine of Rs.1000/- each.
4.	FIR No. 654 dt 01.10.2016 u/s 452/506 IPC & 25 Arms Act, PS City, Rohtak.	On 29.09.2016, petitioner along with his associates came to complainant's office with weapons and asked about him. On the very next day, he reached to the office, where Chand s/o Hoshiyar told him that petitioner along with his associates came to the office and threatened to kill him.	Petitioner was convicted by the Court of Sh. Bharat, JMIC, Rohtak on 21.09.2018 and sentenced to the period already undergone by him.
5.	FIR No.686 dt 14.10.2016 u/s 148/149/452/506 IPC & 25 Arms Act, PS City, Rohtak.	On 29.09.2016 at about 12 AM, petitioner, Rajkumar @ Shyamu, Maan singh, Ravi r/o Sanghi, Sunil s/o Balbir along with his associates had entered in complainant's house	The petitioner arrested and convicted by the Court of Sh. Bharat, JMIC Rohtak on 21.09.2018 and



		forcefully and threatened to kill her.	sentenced to the period already undergone by him.
6.	FIR No.768 dated 12.11.2017 u/s 174-A IPC, PS City, Rohtak.	This case was registered on the complaint of Sh. Sudhir Jakhar, PP Court of Sh. Yogesh Choudhary, JMIC, Rohtak, that during the trial of case FIR No.169/15 u/s 323/341/506/34 IPC PS City, Rohtak, petitioner and Ravi s/o Ajit had absconded.	Petitioner was convicted under Section 174-A IPC by the Court of Smt. Deepti, CJM Rohtak on 20.09.2023 and sentenced to the period already undergone by him.
7.	FIR No.361 dated 13.06.2018 u/s 174A IPC, PS City, Rohtak.	This case was registered on the complaint of Sh. Sudhir Jakhar, PP Court, Sh. Yogesh Choudhary, JMIC, Rohtak that petitioner and Ravi s/o Ajit had absconded	Petitioner-Parveen convicted by the Court of Sh. Yogesh Choudhary, CJM Rohtak on 04.08.2018 and co-accused Ravi has been sentenced to undergone for the period from 29.07.2024 to 02.12.2024.

13. Besides suffering the above convictions, the petitioner was acquitted in the following offences:-

Sr. No.	FIR No. & details	Brief case summary	Arrest Status
1.	FIR No. 95 dt 25.02.2014 u/s 148/149/323/506 IPC, PS City, Rohtak.	Petitioner had beaten complainant while he was washing the car and threatened him to kill and fled away.	Petitioner was <u>acquitted</u> by the Court of Sh. Sanjeev Kajla, JMIC, Rohtak on 14.03.2019.
2.	FIR No.179 dt 06.10.2016 u/s 323/365/34 IPC, PS Lakhan Majra, Rohtak.	On 02.10.2016, complainant was present in his house. Petitioner Rohtash r/o Sanghi, Monty and Bijender s/o Ishwar r/o Nidana came to complainant's house in a car and asked him to go with them to settle his car issue. Thereafter petitioner blindfolded him and put him in the car trunk. On 06.10.2016, petitioner had thrown him outside his village.	The petitioner arrested but <u>acquitted</u> by the Court of Sh. Raj Kumar Yadav, ASJ, Rohtak on 15.09.2023.
3.	FIR No.156 dated 26.02.2017 u/s 25 Arms Act, PS City, Rohtak.	On 26.02.2017, accused Aakashdeep s/o Prem Kumar r/o Bagichi mohalla, Balmiki Chowk,	Arrested but <u>acquitted</u> of all charges by the Court of Sh. Amberdeep



		Rohtak, Isho s/o Umed Singh, CJM, r/o Shyam Colony, Rohtak Fatehabad giving and Manish s/o Virender petitioner the benefit r/o Rajendera colony of doubt on Rohtak were nabbed by 09.02.2023. the police party with illegal weapons. During the investigation it was revealed that the illegal weapons seized by the police were provided by petitioner.	
4.	FIR No.264 dated 18.04.2022 u/s 384, 506 IPC, PS Rohtak City.	Petitioner was an accomplice in this case of extortion and criminal intimidation to a property dealer.	Petitioner was <u>acquitted</u> by the Court of Smt. Deepti, CJM Rohtak on 04.12.2023.

14. Whereas the remaining offences, where trial is pending, are as follows: -

Sr. No.	FIR No. & details	Brief case summary	Arrest Status
1	FIR No.55 dated 08.03.2023 u/s 148, 149, 307, 506, 120B IPC & Sec 25 & 27 Arms Act, PS Bahu Akbarpur, Rohtak.	Petitioner and co-accused Rahul along with 20-25 other people fired multiple bullets upon complainant Ashish.	Petitioner was arrested and granted bail by the Court. Next date is 16.01.2025 fixed for hearing.
2.	FIR No.527 dt 04.09.2015 u/s 285/34 IPC & 25 Arms Act, PS City, Rohtak.	On 04.09.2015 police party received information from a source that petitioner Ishu and your associates and one other party from village Bohar fired bullets on each other and fled away in their cars.	Petitioner was arrested in the case. The case is under trial and next date of hearing before the trial Court is 09.01.2025.
3.	FIR No.189 dt 07.03.2016 u/s 307/34 IPC & 25 Arms Act, PS Barauda, Sonipat.	On 07.08.2016, complainant came at his liquor shop for cash collection. Kulbir Deshkheda along with his associates came to the liquor shop in a car and fired bullets upon him with an intention to murder him and ran away.	Petitioner arrested in this case and granted bail by the Court of Dr. Sanjeev Arya, ASJ, Sonapat on 05.09.2023 and next date for hearing is fixed as 12.02.2025.
4.	FIR No.345 dated 11.06.2018 u/s 148, 149, 321, 323 IPC, PS Shivaji Colony, Rohtak.	This case was registered on the complaint of Dharmbir Singh, Deputy Superintendent, District Jail, Rohtak against petitioner, Rahul s/o Jagdish r/o Khidwali and	Petitioner arrested and granted bail by the Court of Sh. Aditya Singh Yadav, JMIC, Rohtak on 28.08.2023 and next date is 24.12.2024



		Dheeraj s/o Suresh r/o Dulhera, Rajbir s/o Krishan r/o Bhagwatipur for assaulting and injuring other inmates.	fixed for hearing.
5.	FIR No.161 dated 13.04.2019 u/s 386 IPC, PS Urban Estate, Rohtak.	This case was registered on the complaint of liquor contractor Jogender Singh r/o Rohtak that he received multiple threat calls from various unknown mobile numbers and the called introduced himself as Anil Chippi who asked him to quit the liquor contract. He suspected that the liquor contractor namely Ravinder Malik, Paramjet Tehlan, Jaibhagwan and Sony also involved in this matter.	Petitioner was arrested in the case and granted bail by the Court of Sh. Manglesh Kumar Choubey, ACJM, Rohtak on 20.12.2023 and next date is 24.12.2024 fixed for hearing.
6.	FIR No.459 dated 01.07.2022 u/s 307, 34 IPC & 25 Arms Act, PS City, Rohtak.	When the complainant in FIR No.264 dated 18.04.2022, PS Rohtak City, u/s 384, 506 IPC did not give the extortion amount, two masked men came to his house on a motorbike and incessantly fired at him.	Petitioner was arrested and granted bail by the Court of Sh. Rakesh Kumar Yadav, Sessions Judge, Rohtak on 01.11.2022 and the case is adjourned for 15.01.2025 .
7.	FIR No.7 dated 04.01.2023 u/s 148, 149, 323, 506 IPC PS IMT, Rohtak.	On 04.01.2023, when the complainant was present on his plot, petitioner came there along with his associates and beat him and threatened him to kill.	Petitioner was arrested and granted bail by the Court of Smt. Deepti, CJM, Rohtak on 30.11.2023 and next date is fixed as 17.02.2025 for hearing.
8.	FIR No.115 dated 22.06.2023 u/s 25 Arms Act, PS Bahu Akbarpur, Rohtak.	On 22.06.2023, police party nabbed petitioner with 02 illegal weapons.	Petitioner was arrested and granted bail by the Court of Sh. Abhimanyu Rajput, JMIC, Rohtak on 03.10.2023 and next date is 21.04.2025 .
9.	FIR No.80 dated 08.03.2024 u/s 25 Arms Act, PS Special Cell, Delhi.	On 08.03.2024, police party nabbed petitioner with 01 pistol and 04 live cartridge.	Petitioner arrested and sent to judicial custody. Next date of hearing before the trial Court is 30.01.2025 .



15. In the backdrop of the aforesaid convictions in cases mentioned in paragraph-12 of this order, the respondent-State has laid emphasis on three FIRs registered against the petitioner.

- i) **FIR No. 55 dated 08.03.2023 under Sections 148/149/307/506/120-B of the Indian Penal Code and Sections 25 and 27 of Arms Act, registered at Police Station Bahu Akbarpur, Rohtak;**
(TRIAL BEING PENDING)

This FIR arises out of a recent incident which led to formation of an opinion by the competent authority that allowing the petitioner to enjoy his right to personal liberty would be prejudicial to the same right of the society at large. Thus, there is a need to elaborate the said incident and understand the consequences, this incident casts over the peace and tranquillity and public order in the society.

This FIR stems from an incident of 07.03.2023 when the complainant received a call from the petitioner and co-accused Rahul threatening the complainant of dire consequences followed by the incident which took place on the same day at 12.40 AM midnight when the petitioner along with co-accused Rahul and 22 to 25 other persons came to the house of complainant, exhorted the complainant to come out and fired 25 rounds of bullet at the complainant. Empty shells were recovered from the place of incident. The CCTV footage recovered during investigation of the said incident revealed 22 to 25 persons approaching the complainant house in four vehicles and indulging in indiscriminate firing towards the house of the complainant. After investigation, 13 accused persons were arrested which led to filing of three charge-sheets *inter-alia* against the petitioner which were submitted in Court on 16.08.2023.



The aforesaid incident dated 07.03.2023 as revealed by the State in its reply created a sense of fear and panic among the public at large. After the said incident, it is alleged that the village where the incident took place wore a deserted look for many days as the villagers feared to step out of their homes. Additional police force was deployed in the village as well as at the house of the complainant for restoration of peace. It is also alleged in the reply that this incident created shock waves amongst the residents of the village.

ii) **FIR No. 80 dated 08.03.2024 under Section 25 of the Arms Act, Police Station Special Cell, Delhi, (trial pending):-**

In the aforesaid incident relating to FIR No. 55 dated 08.03.2023, the petitioner was released on bail vide order dated 07.12.2023 but the petitioner misused the bail bonds conditions by committing further crime of having in his possession illicit firearm and misusing the same, for which this FIR No. 80 dated 08.03.2024 was registered. In this FIR, it was revealed that during investigation, a country made weapon and four live cartridges were recovered from the possession of the petitioner who was planning to commit murder of the members of his rival gang by using illicit firearms.

iii) **FIR No. 7 dated 04.01.2023 under Sections 148, 149, 323, 506 of the Indian Penal Code, Police Station IMT Rohtak (trial pending):-**

This FIR was registered on 04.01.2023 due to an incident where the petitioner committed an offence after being released on bail from judicial custody by misusing the conditions of bail bonds in an earlier offence qua FIR No. 459 dated 01.07.2022 under Sections 307 read with Section 34 of the Indian Penal Code and 25 of the Arms Act, registered at Police Station City Rohtak.



Reply of the respondent-State of Haryana further reveals that the petitioner has been continuously indulging in repeated offences while being an active member of 'Azad Gang' and the factum of the petitioner being in custody does not deter the petitioner's tendency to indulge in further crime. Reply further reveals that large number of calls were exchanged between the petitioner and co-accused Pawan and Raj Kumar alias Shyamu who are active members of Azad Gang during January-2023 to January-2024.

Reply also reveals that the petitioner despite being in or out of custody is highly active on social media platform like *Instagram* and *Facebook* where he is seen brandishing illicit fire arms, taking pride in being a Gangster, showing no remorse for the crimes committed by him. The video clips uploaded on social media led to influencing the young and immature minds of the youth of the area concerned inducing them to commit crime. The petitioner also has a large fan following on the social media and therefore, there is a high possibility of a large number of youth deviating from righteous and virtuous path and getting sucked into the quagmire of the dark world of crime.

- iv) Another instance has been cited by the State in its reply that when the petitioner was released on bail from District Jail, Sunaria, District Rohtak on 22.12.2023, a huge crowd of persons with criminal antecedents gathered outside to give a Hero's welcome to the petitioner. The video-clip of this welcome was posted on the Instagram page. This caused huge ruckus outside the jail premises compelling the police to deploy additional force to restore public order. Upon verifying the names of the participants of this welcome group, it was found that 20 persons in the group had criminal antecedents.



16. In the backdrop of the aforesaid factual matrix, it is obvious that the nature of crimes registered against the petitioner may not ostensibly appear to be serious since they do not attract a sentence of more than 2-3 years (except offence punishable under Section 307 IPC) but the sense of fear and terror arising therefrom was taken note of by the competent authority to arrive at the satisfaction that if an order of preventive detention is not passed, then the petitioner would commit further offences of similar or graver nature which can be prejudicial to public order.

Thus, this Court is of the considered view that the consequences, the aftermath and the fear and terror resulting from the acts of the petitioner while committing various offences were sufficient for the competent authority to form an opinion in the interest of maintaining public order by passing order of preventive detention with the ultimate object of dissuading petitioner from committing further breach of public order.

17. Coming to the other ground of procedural lapse in passing of the impugned order of preventive detention i.e. violation of Section 3(5) of NSA, learned counsel for the petitioner contends that it is mandatory upon the State Government to report, to the Central Government together with the grounds on which the order of preventive detention is passed, within seven days of the approval by the State Government of the said order.

- 17.1. It is urged by petitioners that State Government approved the order of preventive detention on 08.05.2024 whereafter it was forwarded to the Government of India on 16.05.2024 and after receipt of the same by the Government of India on 17.05.2024, the Government of India concurred



with the opinion of the State Government on 20.05.2024. In this factual background, it is contended that forwarding to the Government of India by the State Government was made after seven days and thus the order of preventive detention stands vitiated.

17.2 It is an admitted position that the State Government forwarded the approval of orders of preventive detention with supportive grounds, after a period of seven days. The delay thus caused is attributed to the State Government in forwarding the approval of State Government with supportive material, beyond a period of seven days as prescribed in Section 3(5) of the NSA.

17.3 State Government in its reply has not denied the aforesaid delay but instead has laid stress on the seriousness of certain allegations arising out of the incidents as narrated above, which were likely to adversely affecting public order if the petitioner was not preventively detained.

17.4 Thus, undoubtedly there is delay, but the delay is only of (1) day. Seven days if calculated from 08.05.2024 when the State Government approved order of preventive detention, comes to 15.05.2024. The State Government forwarded the preventive detention order along with its approval and supportive material on 16.05.2024 to the Government of India, the delay thus is only of (1) day.

17.5 No doubt, the Apex Court in ***Ameena Begum vs. The State of Telengana and others*** (supra) has held that the timeline prescribed by NSA is to be strictly adhered to but considering the fact that this Court is upholding the order of preventive detention on-merits, disturbing the same on single day delay in forwarding by State Government to Government of India would be travesty of justice. For ready reference and convenience, the operative paragraph-28 of ***Ameena Begum vs.***



The State of Telengana and others (supra) is reproduced hereinbelow:-

“28. 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:

28.1. *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;*

28.2. *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;*

28.3. *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;*

28.4. *The detaining authority has acted independently or under the dictation of another body;*

28.6. *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;*

28.7. *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;*

28.8. *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;*

28.9. *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*



28.10. *The timelines, as provided under the law, have been strictly adhered to.”*

17.6 From the aforesaid verdict of the Apex Court, it is obvious that the Constitutional Courts are entitled to examine *inter-alia* that the timeline as provided by NSA has been strictly adhered to or not.

17.7 In the instant case, the timeline provided under Section 3(5) of the NSA has been exceeded only by one day. The State Government has succeeded in satisfying this Court that the past action of the petitioner reflected from various offences registered against him particularly the offences arising from FIR No. 7 of 2023, FIR No. 55 of 2023 and FIR No. 80 of 2024 could have entailed breach of public order compelling the competent authority to take preventive action of invoking Section 3(3) of NSA. Thus, the said ground is decided against the petitioner.

18. Coming to the ground of non-application of mind on the part of the competent authority in the backdrop of petitioner being in custody when the order of preventive detention was passed is concerned, the same too does not impress this Court. The material on record especially the contents of the reply of the District Magistrate reveals that the offences registered against the petitioner were not ostensibly serious in nature, there was all likelihood for the petitioner to be admitted to bail by the Court of competent jurisdiction. Thus, to pre-empt any such possibility of petitioner enjoying liberty and again becoming a potential danger to the society at large, the competent authority rightly invoked the extraordinary power of preventive detention.

19. The last ground raised is the absence of live and approximate link between the proposal made by the Superintendent of Police, Rohtak as early as on 05.03.2024 while the impugned order of preventive



detention was passed as late as on 01.05.2024. By so contending, learned counsel for the petitioner submits that if the proposal of Superintendent of Police, Rohtak dated 05.03.2024 was not acted upon by the District Magistrate for almost two months, then the emergent situation which arose on account of likely breach of public order, got diffused thereby obviating the need for passing of an order of preventive detention.

19.1. If the proposal of Superintendent of Police, Rohtak is perused, it makes it clear that the petitioner had indulged in certain acts which disturbed public order. There were various instances where the petitioner had breached the terms and conditions of bail to commit subsequent offences. The petitioner on being released on bail on 22.12.2023 collected huge crowd of people welcoming him as Hero and the said video clips were made viral on the social platform, which invited large number of 'likes', it was obvious that the youth of the area concerned are being misled in following nefarious activities of the petitioner. The District Magistrate took timely steps to prevent the younger generation from being spoiled any further by passing the impugned order of preventive detention. The activities of the petitioner had not remained within the confines of personal rivalry between the complainant and the petitioner but had assumed wider ramifications where petitioner being an active member of Azad Gang was committing repeated offences with impunity. The petitioner was eulogised by the younger generation who because of being gullible were unknowingly following the wrong path. It is thus imperative for the District Magistrate to step in and prevent any further serious crime from being committed by the petitioner by passing the impugned order of preventive detention.



20. Once this Court finds that the impugned order of preventive detention has been passed by applying mind by the District Magistrate for good and sufficient reasons though subjectively but based on objective material, this Court deems it appropriate not to interfere with the order of preventive detention passed by the District Magistrate and also the subsequent orders of confirmation by the higher authorities.
21. Before concluding this Court may observe that the breach of timeline provided in Section 3(5) of NSA is only marginal and not substantial. More so, justiciability of an order of preventive detention, cannot be assessed dehors various compelling circumstances of glaring breach of public orders faced by District Magistrate, Rohtak.
- 21.1 In the instant case, various factors which compelled the District Magistrate to pass the impugned order of preventive detention can cumulatively be reiterated as the petitioner being an active member of Azad Gang, repeatedly violating the terms and conditions on which he was granted bail; the petitioner setting a wrong example for the youngsters of following the path of crime, the petitioner having suffered seven convictions in the last 10 years and being subjective to investigation or criminal trials in 9 offences.
22. In the given facts and circumstances and the attending factual matrix, it would have been a travesty of justice if the District Magistrate had not exercised his extra ordinary powers of preventive detention. Thus, this Court upholds the order of preventive detention and all the subsequent orders passed by the higher authorities.
23. Accordingly, we find no merit in the petition and the same stands dismissed.



All the pending miscellaneous applications, if any, are also disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

20th December, 2024
Ayub/ravinder sharma

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No