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WP-2986-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 11th OF SEPTEMBER, 2026WRIT PETITION No. 2985 of 2026*RAJENDRA THAKUR @ CHHOTU**Versus**THE STATE OF MADHYA PRADEH AND OTHERS*

.....
Appearance:

*Shri Nikhil Tiwari, Advocate for petitioner.**Shri Abhishek Singh, Government Advocate for State.*
.....WITHWRIT PETITION No. 2986 of 2026*RAJESH THAKUR @ BHAIYA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

.....
Appearance:

*Shri Nikhil Tiwari, Advocate for petitioner.**Shri Abhishek Singh, Government Advocate for State.*
.....ORDER*Per. Justice Vivek Agarwal*

These writ petitions are filed being aggrieved of order dated 6.1.2026 passed by the respondent No.2/District Magistrate, Jabalpur ordering detention of the petitioner under the provisions of the National Security Act, 1980 for a period of three months.

2 It is submitted by learned counsel for the petitioner that



periodically, the District Magistrate, Jabalpur is enhancing the period of detention of the petitioner and has enhanced it from time to time on 1.4.2026 and 6.7.2026 for a further period of three months each under the National Security Act, 1980. The petitioner is a peace loving citizen of the Country. His fundamental rights are being violated by the District Magistrate, Jabalpur for the reasons other than what have been mentioned in the order of the preventive detention. The proceedings of preventive detention are malafide. There is violation of principle of natural justice and no opportunity of hearing was ever provided to the petitioner.

3 It is submitted by learned counsel for the petitioner that the District Magistrate, Jabalpur has made a mention of the twenty-two cases out of which two cases were in the nature of prohibitory proceedings under Section 129 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which were initiated in the year 2024 and 2025. The other cases are stale starting from 2001 to 2015. After 2015, two cases were registered; one in 2024 pertaining to Crime No.371/2024 for the offence under Sections 294, 452, 342, 323, 506, 34 of the Indian Penal Code, 1860 and another pertaining to Crime No.19/2026 for the offence under Section 296B, 118(1), 351(2), 190, 191(2), 191(3) of the Bharatiya Nyaya Sanhita, 2023 and Section 3/5 of the Explosive Substances Act so also under Section 109(1) of the Bharatiya Nyaya Sanhita, 2023.



4 It is submitted by learned counsel for the petitioner that out of twenty cases, the District Magistrate has shown that thirteen cases are presently pending trial and one case has been disposed of on the basis of the compromise whereas in three other cases, the petitioner has been punished with fine. In one of the cases, the petitioner was acquitted at the stage of investigation and in two other cases, the petitioner was honourably acquitted by the competent Magistrate. According to learned counsel, this very information is incorrect.

5 It is submitted by learned counsel for the petitioner that the petitioner has filed copy of judgments to show that he has been acquitted in sixteen cases by the competent Courts/Investigating Agency, while minor penalties, i.e. nominal fines, were imposed in three cases. In one case i.e. the FIR pertaining to Crime No.19/2026, investigation is pending. The aforesaid fact mentioned in the rejoinder has not been rebutted. Thus, it is submitted that on wrong premise, learned District Magistrate, Jabalpur has passed an order of preventive detention, which has no foundation, therefore, that order needs to be set aside.

6 Learned Government Advocate for the State supports the impugned order and opposes the prayer made by learned counsel for the petitioner submitting therein that even without there being a single case registered, if the District Magistrate is of the opinion that free movement of the petitioner is a risk to the maintenance of



public order then also the petitioner could have been subjected to the proceedings under the National Security Act, 1980. He points out that in the return, a clear stance is taken about the activity of the petitioner and that too how within the jurisdiction of Police Station-Ghamapur, District Jabalpur, the petitioner was found involved in a bomb explosion, which resulted in registration of the FIR against him. The Station House Officer concerned had given a report, which has been duly examined and forwarded by the Superintendent of Police, Jabalpur and thereafter the District Magistrate, Jabalpur made a recommendation for taking preventive detention action under Section 3(2) of the National Security Act, 1980, which does not call for any indulgence in the matter.

7 Learned Government Advocate for the State submits that the Advisory Board was of the opinion that sufficient cause for detention of the petitioner is made out and confirmed the detention order under Section 3 of the National Security Act, 1980. The State Government in exercise of the powers conferred on it by Sub-section (5) of Section 3 of the National Security Act, 1980 reported the detention order to the Central Government alongwith the grounds on which the order of preventive detention has been made in the proforma specified therein. According to learned Government Advocate, some clerical error will not go in favour of the petitioner and, therefore, prayer is made to maintain the order



of the District Magistrate, Jabalpur.

8 Learned Government Advocate for the State places reliance on the judgment of the Apex Court in **Arun Ghosh versus State of West Bengal & Others (1970) 1 SCC 98** to contend that detention is justified if any act of a person is prejudicial to the maintenance of the public order. In view of the fact that the petitioner's detention has been made with a view to maintain public order, no indulgence is called for.

9 Intervenor Ms.Neelam Thadani, whose application was allowed by the High Court, has objected to the prayer made in these writ petitions and has sought dismissal of the present writ petitions submitting therein that these writ petitions have been filed in abuse of the process of law.

10 We have heard learned counsel for the parties and gone through the material available on record.

11 The City Superintendent of Police-Gohalpur, Division-Jabalpur vide order dated 6.1.2026 gave a list of twenty criminal cases and two more cases for the prohibitive action where Istighasas were filed in the year 2024 and 2025 to point out that the acts of the petitioners are against the maintenance of public order. On 4.1.2026, the petitioner had thrown a country made bomb at the house of the complainant causing heavy explosion and creating fear in the minds of the general public. His acts are not sporadic but habitual and repetitive, therefore, a



recommendation was made to take action against the petitioner.

The aforesaid report of the City Superintendent of Police-Gohalpur, Division-Jabalpur was as it is forwarded by the Additional Superintendent of Police (City) Jabalpur on 6.1.2026 itself to the Superintendent of Police, Jabalpur. The Superintendent of Police, Jabalpur on the same day i.e.6.1.2026 forwarded the same to the District Magistrate, Jabalpur. The sequence and timing of the three different police personnel acting together on the same day and the language of the three communications as contained in Annexures R/1 & R/2 reveals non-application of mind. Thereafter, the District Magistrate, Jabalpur passed the order of detention on 6.1.2026 invoking the authority vested in him under Section 3(2) of the National Security Act, 1980.

12 The non-application of mind is apparent on the face of record from the order dated 6.1.2026 passed by learned District Magistrate, Jabalpur as contained in Annexure R/4 wherein it is shown that the case at Serial Nos.3, 4, 5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20 were subjudice.

13 Contrary to the aforesaid, the petitioner has filed copy of orders pertaining to Crime No.149/2002, Charge Sheet No.281/2002, Case No.578/2002 (Serial No.3), Crime No.914/2002, Case No.1907/2002 (Serial No.4), Crime No.863/2003, Case No.1329/2003 (Serial No.5), Crime



No.130/2004, Case No.96/2004 (Serial No.6), Crime
 No.272/2006, Case No.17855/2006 (Serial No.11), Crime
 No.291/2006, Case No.17856/2006 (Serial No.12), Crime
 No.207/2007, Case No.8167/2007 (Serial No.13), Crime
 No.309/2009, Case No.7662/2009 (Serial No.14), Crime
 No.717/2010, Case No.17058/2010 (Serial No.15), Crime
 No.476/2011, Case No.10622/2011 (Serial No.16), Crime
 No.655/2014, Case No.15231/2014 (Serial No.17), Crime
 No.1/2015, Case No.2013/2015 (Serial No.18), Crime
 No.371/2024, Case No.5829/2024 (Serial No.19) and Crime
 No.19/2026 (Serial No.20) is still under investigation.

14 It is evident that Crime No.149/2002 is shown to be pending at Serial No.3, the case number is wrongly mentioned as 578/2002 whereas it is 571/2002 and was decided by the Court of learned Additional Chief Judicial Magistrate, Jabalpur Shri P.C.Mishra vide judgment dated 31.10.2006 and the learned Trial Court acquitted the petitioner. Similarly, the petitioner has been acquitted in cases mentioned at Serial Nos.4, 5, 6 and 11 whereas the cases have been shown to be pending. The petitioner has also been acquitted in cases at Serial Nos.14, 15, 16, 17, 18&19.

15 In R.C.T No.681/2004 pertaining to Crime No.914/2002 dated 7.12.2002 (Serial No.4), learned Judicial Magistrate First Class, Jabalpur Shri Krishnadas Mahar vide judgment dated 24.9.2004 recorded a finding of acquittal in favour of the



petitioner.

16 In R.C.T No.7662/2009 (Serial No.14), learned Judicial Magistrate First Class, Jabalpur Shri Rakesh Kumar Maravi vide judgment dated 13.1.2015 acquitted the petitioner noting a fact that the order of the Additional District Magistrate, Jabalpur was set aside by the Divisional Commissioner in Appeal vide order dated 27.1.2009.

17 In R.C.T No.10622/2011 (Serial No.16), learned Judicial Magistrate First Class, Jabalpur Shri Vivek Shukla vide judgment dated 10.1.2012 recorded a finding of acquittal in favour of the petitioner.

18 In Criminal Case No.15231/2014 (Serial No.17), learned Judicial Magistrate First Class, Jabalpur Ms.Kiran Verma vide judgment dated 13.8.2015 recorded a finding of acquittal on the basis of a compromise after accepting the compromise application as the offences were found to be compoundable.

19 In R.C.T No.2013/2015 (Serial No.18), learned Judicial Magistrate First Class, Jabalpur Shri Sushil Kumar Agrawal passed the judgment on 1.9.2015 and acquitted the petitioner from the charges under Section 324/34 of the Indian Penal Code, 1860.

20 In Criminal Case No.5829/2024 (Serial No.19), learned Judicial Magistrate First Class, Jabalpur Shri Bhupendra Singh passed the judgment on 13.2.2025 and acquitted the petitioner on the ground that the complainant Akash Kumar Shrivastava himself had



not supported the prosecution case.

21 The aforesaid fact as mentioned in the rejoinder has not been controverted by the State by filing any additional return.

22 It has come on record that there is manipulation in the CCTV footage of 4.1.2026 for which the Superintendent of Police, Jabalpur has already issued a show cause notice to the Sub Inspector Shri Dinesh Gautam on 24.6.2026.

23 When all these facts are taken into consideration then it is evident that despite the fact that out of fourteen cases in which trial is shown to be pending in eleven cases, the petitioner has been acquitted, leads to a conclusion that while placing the record of the petitioner, correct facts were not placed before the competent authority and that clearly suffers from the vice of non-application of mind.

24 In our opinion, this lacuna of non-application of mind, arising out of the incorrect supply of data by the concerned City Superintendent of Police, Gohalpur, District Jabalpur, and its mechanical forwarding by the Additional Superintendent of Police and the Superintendent of Police to the District Magistrate, Jabalpur, coupled with the District Magistrate's blatant reliance upon such data without seeking its verification, vitiates the impugned order of detention. Verification could have been obtained with the slightest of efforts by accessing the Crime and Criminal Tracking Network and Systems (for short, "CCTNS"). In



view of the aforesaid circumstances, the impugned order of detention cannot be sustained in the eyes of law.

25 The Apex Court in Paragraph Nos.27, 28, 29, 42 & 66 of **Ameena Begum versus State of Telangana & Others (2023) 9 SCC 587** has held thus:-

“27. Be that as it may, culling out the principles of law flowing from all the relevant decisions in the field, our understanding of the law for deciding the legality of an order of preventive detention is that even without appropriate pleadings to assail such an order, if circumstances appear therefrom raising a doubt of the detaining authority misconceiving his own powers, the Court ought not to shut its eyes; even not venturing to make any attempt to investigate the sufficiency of the materials, an enquiry can be made by the Court into the authority’s notions of his power. Without being remotely concerned about the sufficiency or otherwise of the materials on which detention has been ordered, the Court would be justified to draw a conclusion, on proof from the order itself, that the detaining authority failed to realize the extent of his own powers. This is quite apart from questioning the action for want of sufficient materials that were before the detaining authority. The authority for the detention is the order of detention itself, which the detenu or the Court can read. Such a reading of the order would disclose the manner in which the activity of the detenu was viewed by the detaining authority to be



prejudicial to maintenance of public order and what exactly he intended should not be permitted to happen. Any order of a detaining authority evincing that the same runs beyond his powers, as are actually conferred, would not amount to a valid order made under the governing preventive detention law and be vulnerable on a challenge being laid.

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;

(28.5) The detaining authority, by reason of self-created rules of



policy or in any other manner not authorized by the governing statute, has disabled itself from applying its mind to the facts of each individual case;

(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.

29. Should the Court find the exercise of power to be bad and/or to be vitiated applying any of the tests noted above, rendering the



detention order vulnerable, detention which undoubtedly visits the person detained with drastic consequences would call for being interdicted for righting the wrong.

*42. Turning our attention to Section 3(1) of the Act, the Government has to arrive at a subjective satisfaction that a goonda (as in the present case) has to be detained, in order to prevent him from acting in a manner prejudicial to the maintenance of public order. Therefore, we first direct ourselves to the examination of what constitutes ‘public order’. Even within the provisions of the Act, the term “public order” has, *stricto sensu*, been defined in narrow and restricted terms. An order of detention under Section 3(1) of the Act can only be issued against a detenu to prevent him “from acting in any manner prejudicial to the maintenance of public order”. “Public order” is defined in the Explanation to Section 2(a) of the Act as encompassing situations that cause “harm, danger or alarm or a feeling of insecurity among the general public or any section thereof or a grave wide-spread danger to life or public health”.*

66. It requires no serious debate that preventive detention, conceived as an extraordinary measure by the Framers of our Constitution, has been rendered ordinary with its reckless invocation over the years as if it were available for use even in the ordinary course of proceedings. To unchain the shackles of preventive detention, it is important that safeguards enshrined in



our Constitution, particularly under the “golden triangle” formed by Articles 14, 19 and 21, are diligently enforced.”

26 Thus, when the aforesaid pronouncement of law laid down by the Apex Court in **Ameena Begum versus State of Telangana & Others (supra)** is taken into consideration, then there is no iota of doubt that there was no material to arrive at the subjective satisfaction for preventive detention, which, as conceived by the framers of our Constitution, is an extraordinary measure, but has been rendered almost ordinary by its reckless invocation over the years, as if it were available for use in the ordinary course of proceedings.

27 As held by the Apex Court in **Ameena Begum versus State of Telangana & Others (supra)** that to unchain the shackles of the preventive detention, it is important that the safeguards enshrined in our Constitution particularly under the “golden triangle” formed by Articles 14, 19 and 21 are diligently enforced.

28 The application of mind to invoke the aforesaid extraordinary measure appears to be missing in the present case. There is no requisite satisfaction recorded by the detaining authority. There also appears to be non-application of mind. It also appears that the haste with which the matter was processed in a single day took away independent exercise of mind by the detaining authority. When the factual matrix is not correct then application of law cannot be expected to be correct.



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29 In view of the aforesaid, the impugned order dated 6.1.2026 passed by the respondent No.2/District Magistrate, Jabalpur ordering detention of the petitioner under the provisions of the National Security Act, 1980 is hereby set aside.

30 Accordingly, Writ Petition No.2985/2026 & Writ Petition No.2986/2026 are allowed & disposed of.

(VIVEK AGARWAL)
JUDGE

(AVANINDRA KUMAR SINGH)
JUDGE

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