

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**Cr.WP No. 53 of 2026****Date of decision: 22.07.2026**

Lucky Chandel	Versus	...Petitioner
State of H. P. & Ors.		...Respondents

*Coram****The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.******The Hon'ble Mr. Justice Bipin C. Negi, Judge.****Whether approved for reporting?***For the Petitioner:** Mr. Naresh K. Sharma, Advocate.**For the Respondents:** Mr. Pranay Pratap Singh, Additional Advocate General.**G. S. Sandhawalia, Chief Justice (Oral)**

Challenge in the present petition is to the detention order dated 02.05.2026 (Annexure P-2), whereby the petitioner has been detained for a period of three months under Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for short '***PIT NDPS Act***') by the State Government on account of the fact that three FIRs have been registered against him. The details of the FIRs read as under:-

i. About 1.08 grams of Heroine/Chitta was recovered from him under Sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 in First Information Report No. 119/2019 dated 15.06.2019 at Police Station Ghumarwin, District Bilaspur, Himachal Pradesh.

ii. In First Information Report No. 164/2024 dated 10.10.2024, registered at Police Station Ghumarwin, District Bilaspur, H.P. under Section 21 of the narcotic drugs and psychotropic substances Act, 1985, approximately 07.87 grams of heroin/chitta was recovered from him.

iii. In First Information Report No. 59/2025 dated 23.04.2025, registered at Police Station Ghumarwin, District Bilaspur, H. P. under Sections 21, 29 of the narcotic drugs and psychotropic substances Act, 1985, approximately 7.7 grams of heroin/chitta was recovered from him."

2. As per the said detention order, there was a recommendation by the Director General of Police dated 18.04.2026, after a year of the last FIR was registered and apparently after 10 months from the date the petitioner had been released on bail in the last FIR No. 59/2025 on 26.06.2026, as per the bail order now placed on record by the learned counsel for the petitioner.

3. In such circumstances, learned counsel for the petitioner has argued that on two accounts i.e. the proximate live link is missing as there was delay of a year and there was no such activity under the NDPS Act, therefore, the ground as such that the proposal of detention order is based on recent activities by various inputs and statements and that he is an

active supplier in the drugs distribution network is without any basis.

4. It is settled principle that preventive detention is a draconian power and cannot be invoked at the asking of the State keeping in view Article 21 of the Constitution of India.

5. Learned counsel for the State, on the other hand, has tried to justify the detention order on the ground that the value of the recovery of the contraband in three FIRs was to the tune of Rs. 3.2 lacs, as per the proposal made on 28.03.2026. It is, thus, submitted that order of detention as such is justified keeping in view the fact that the petitioner was repeatedly involved and apprehended in three cases.

6. We have also gone through the order dated 26.06.2025, passed by the Special Judge, Ghumarwin, District Bilaspur, whereby the bail was granted in FIR No. 59/2025 and found that the petitioner was sitting as a pillion rider alongwith one Sandeep Kumar on the scooty bearing registration No. HP-23A-5868 and the recovery as such of 7.7 grams of heroin has been alleged. The Court as such had granted the bail on the ground that the heroin recovered from the petitioner was of small and intermediate quantity and therefore, the rigour of Section 37 of the IPC would not apply.

7. In such circumstances, we are of the considered opinion that the petitioner is being prosecuted in three FIRs in question and has been successful in getting the bail in the said cases and is facing trial, which is yet to be completed. Therefore, it cannot be recorded as such that he is involved in drugs trafficking. The factum that he was released on bail on 26.06.2025 and thereafter was not involved in any case under the NDPS Act bringing in the principle of law that proximate live link is essential criteria as such before detention order can be passed. The last FIR was lodged on 23.04.2025 and the detention order was passed after a period of one year on 02.05.2026 , therefore, the aspect of live link is totally missing.

8. Reliance can be placed upon the judgment in ***Sama Aruna vs. State of Telangana, (2018) 12 SCC 150***, wherein it has been held that the FIRs registered against the detenue were capable of being dealt with in the ordinary course of criminal law and the order of detention would amount to punishment without trial. The relevant portion reads as under:-

“17. We are, therefore, satisfied that the aforesaid detention order was passed on grounds which are stale and which could not have been considered as relevant for arriving at the subjective satisfaction that the detenu

must be detained. The detention order must be based on a reasonable prognosis of the future behavior of a person based on his past conduct in light of the surrounding circumstances. The live and proximate link that must exist between the past conduct of a person and the imperative need to detain him must be taken to have been snapped in this case. A detention order which is founded on stale incidents, must be regarded as an order of punishment for a crime, passed without a trial, though purporting to be an order of preventive detention. The essential concept of preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it. See G. Reddeiah v. Government of Andhra Pradesh and Anr. , and P.U. Iqbal v. Union of India.

18 to 21 x-----x-----x-----x-----x

22. We are of the view, that the detention order in this case is vitiated by taking into account incidents so far back in the past as would have no bearing on the immediate need to detain him without a trial. The satisfaction of the authority is not in respect of the thing in regard to which it is required to be satisfied. Incidents which are stale, cease to have relevance to the subject matter of the enquiry and must be treated as extraneous to the scope and purpose of the statute.

23. In this case, we find the authority has come to a conclusion so unreasonable that no reasonable authority could ever reach. A detaining authority must be taken to know both, the purpose and the procedure of law. It is no answer to say that the authority was satisfied. In T.A. Abdul Rahman v. State of Kerela and Ors., this Court observed, where the authority takes into account stale incidents which have gone by to seed it would be safe to infer that the satisfaction of the authority is not a genuine one.

24 & 25 x-----x-----x-----x-----x

26. The influence of the stale incidents in the detention order is too pernicious to be ignored, and the order must therefore go; both on account of being vitiated due to malice in law and for taking into account matters which ought not to have been taken into account."

9. Reliance can also be placed upon judgment in ***Mallada K. Sri Ram Vs. State of Telangana and Others, (2023) 13 SCC 537***, whereby the bail was granted to the detinue prior to five months of passing of the detention order. It is not disputed that the Apex Court has time and again reiterated the "golden triangle" formed by Articles 14,19 & 21 and come to the conclusion that reckless invocation as such over the years as such, of preventive detention have to be constantly monitored by the High Courts.

10. In such circumstances, we are of the considered opinion that the petition is liable to be allowed and accordingly the detention order dated 02.05.2026 (Annexure P-2) is quashed and set aside and the petitioner be set free forthwith, if not required in any other case.

11. Pending applications, if any, also stand disposed of.

(G. S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

22nd July, 2026(sanjeev)