



2025:CGHC:23752-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPCR No. 315 of 2025**

1 - Satyanarayan Soni @ Babu Soni Aged About 35 Years, Caste Sonar, Resident Of Bhairamdev Ward, Behind Collector Banglow, Jagdalpur, Police Station Kotwali, Jagdalpur, District Bastar (C.G.)

... Petitioner**versus**

1 - State Of Chhattisgarh Through- The Superintendent Of Police, Jagdalpur, District Bastar (C.G.)

2 - Commissioner-Cum- Detaining Authority Bastar Division, Jagdalpur, District Bastar (C.G.)

Respondent(s)**(Cause-title taken from Case Information System)**

For Petitioner(s) : Mr. Ramsajiwan, Advocate

For Respondent(s) : Mr. S.S. Baghel, Dy. GA

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Bibhu Datta Guru, Judge****Order on Board****Per Ramesh Sinha, Chief Justice****13/06/2025**

1. Heard Mr. Ramsajiwan, learned counsel for the petitioner. Also heard Mr. S. S. Baghel, Dy. Govt. Advocate for respondents/ State.
2. The present is a writ petition filed by the petitioner against the impugned order dated 22/05/2025 passed by the Commissioner-cum-Detaining Authority, Jagdalpur in Criminal Case No. 13/202504950100005/B-121/2024-25 whereby the Commissioner while exercising the powers under Section 3 sub-section (1) of Prevention of Illicit Traffic in Narcotic Drug and Psychotropic Substance Act, 1988 (in short "Act of 1988") passed the order for detaining the petitioner in jail for six months.
3. The brief facts of the case are that a Istagasa was produced in respect of petitioner by the respondent No.1 under Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substance Act 1988 (hereinafter referred as Act-1988) before the respondent No.2, subsequently on the basis of which the statement of concerned Police Station, was recorded wherein it was submitted that there was frequent information against the petitioner for illicit sale of contraband and also complaints were received and on 24-01-2022 crime baring FIR No.411/2022 for the offence under Section 21 (B) of NDPS Act has been registered and the petitioner has been enlarged on bail and one another Crime No.262/2023 for the offence under Section 21 (C) wherein the petitioner has already admitted the crime, therefore, the learned trial court has sentenced R.I. for 75 days with fine amount of Rs.15,000/-. Subsequently after considering the documents and the material on record, the respondent No.2 passed the impugned order dated 22-05-2025 (Annexure P-1) whereby in light of Section 3 read with 11 of the

Act-1988, the respondent No.2 came to the finding that the petitioner was involved on 24-01-2023 for trafficking of Narcotics Substance and Syrups and registered the crime for the offence under Section 411/2022 by the Police of Police Station Kotwali Jagdalpur and enlarged on bail in this crime and another Crime No.262/2023 for the offence under Section 21 (C) of NDPS Act and the petitioner has been acquitted in this case and there is apprehension that he would continued the same and thus in the light of Section 10 of the Act-1988, the petitioner has been directed to be detained for the period of 03 months. Such a finding is illegal, because there is no recent offence registered against the petitioner and in the reply the petitioner has already submitted that he has acquitted from both the crime numbers, hence the order of detention is arbitrary without application of mind and is illegal. It was also reported that even after above proceedings there was no correction in the status of the petitioner and he is complaint to be involved in the illicit Trafficking of Contraband and he is a habitual offender, thus recommendation was made for detention of the petitioner under the Act-1988.

4. Subsequently, in the proceedings, the petitioner was provided with the Istagasa and other documents and the reply was sought and the statement was also recorded, wherein the petitioner denied the allegations and it was submitted by that he has been acquitted in the both the charges stated above and he prayed for rejection of the proceeding initiated under the Act-1988.
5. After considering the documents and the material on record, the respondent No.2 passed the impugned order dated 22-05-2025

(Annexure P-1) whereby in light of Section 3 of the Act-1988, the respondent No.2 came to the finding that the petitioner was involved in previous case for trafficking of Ganja and there is apprehension that he would continued the same and thus in the light of Section 10 of the Act-1988, the petitioner has been directed to be detained for the period of 03 months.

6. Learned counsel for the petitioner would submit that before passing the order of detention, the reply submitted by the petitioner has not been considered properly and before passing the order, no opportunity of personal hearing was provided. Merely on the basis of statement of Station House Officer, the Commissioner has passed the impugned order. No new offence have been registered against the petitioner and there is no sufficient material against the petitioner to conclude that he actively engaged in the illegal activities or trafficking the narcotic drugs. He would further submit that the was prosecuted under the NDPS Act previously and it was stated that the petitioner is habitual criminal and would involve in trafficking of contraband, such a finding is illegal, because there is no recent offence registered against the petitioner and in the reply the petitioner has already submitted that he has already acquitted in all the previous crime numbers, hence the order of detention is arbitrary without application of mind and is illegal. Therefore, the impugned order is liable to be set aside.
7. On the other hand, learned counsel for the State opposes and submitted that from the impugned order itself, as well as the document annexed with the petition, it is quite vivid that the petitioner is actively engaged in

illegal activities and to prevent such illegal activities of narcotic drugs or any other type of offence, he is directed to be detained in Central Jail, Jagdalpur for three months, which is passed strictly in accordance with law and needs no interference. According to the learned counsel in respect of similar offence earlier two crimes were registered against the petitioner in which for one crime he admitted and the second crime is pending.

8. We have heard learned counsel for the parties and perused the material produced with the petition.
9. From perusal of the material annexed with the petition, it appears that the offence under Section 21 (B) of NDPS Act were registered against the petitioner. The Commissioner, has passed its order only on the basis of oral evidence of Station House Officer, who stated that there was frequent information against the petitioner for illicit sale of contraband and also complaints were received from the possession of petitioner was seized, for which Crime was registered for the offence under Section 21 (B) of NDPS Act and therefore, the petitioner, is liable to be detained in jail. The consideration of the Commissioner, is based on only apprehension that the petitioner is indulge in illegal activities for which they received inputs but there is no concrete material to draw the conclusion that the petitioner indulge in illegal activities. From the material available on record it is also evident that fresh incident has not been recorded. Further, false allegations and several complaints received against the petitioner can not be a ground to detain the present petitioner and the State counsel is trying to justify the impugned order.

10. We, therefore, do not found any sufficient ground to uphold the order passed by the Commissioner, Jagdalpur, dated 22/5/2025 (Annexure-P/1).
11. In view of the above, the impugned order dated 22/5/2025 is set aside. The petitioner is reported to be in jail, he shall be released forthwith if not required in any other case.
12. In the result, the present petition is allowed in the aforesaid terms.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice