2025:AHC:204596-DB

Reserved
A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 714 of 2025

Shoaib (Corpus) …..Petitioner

Versus

State of U.P. and others …..Respondents

Counsel for Petitioner	:	Mohd Naushad, Syed Irfan Ali
Counsel for Respondents	:	Manish Pandey, G.A.

Court No. - 44

HON'BLE J.J. MUNIR, J.
HON'BLE SANJIV KUMAR, J.

(Delivered by: Hon'ble J.J. Munir, J.)

1. Shoaib, son of Aslam Khan, has moved this habeas corpus writ petition challenging his detention under Section 3(2) of the National Security Act, 1980 (for short, the NSA) by virtue of the order dated 19.11.2024 passed by the District Magistrate, Mau and confirmed by the State Government *vide* order dated 31.12.2024. The petitioner prays that by the grant of a *rule nisi,* the respondents be directed to produce him and, after declaring his detention illegal, he be set at liberty.

2. A First Information Report (FIR, for short), regarding an incident dated 15.11.2024 that happened at half past six in the evening, was lodged on 16.11.2024 at twenty minutes past midnight by one Smt. Sharda Devi, wife of the late Balkaran Rajbhar, a resident of village-Badagaon, Police Station- Ghosi, District- Mau, giving rise to Case Crime No. 530 of 2024 under Sections 3(5), 118(1) and 109(1) of the

Bharatiya Nyaya Sanhita, 2023. The FIR was lodged saying that the informant's son Sukkhu was proceeding home on 15.11.2024 when, at the Madhuban Turn, at about 06.30 in the evening hours, he reached near the old post office. Shoaib, son of Aslam Khan, hit Sukkhu's motorcycle from the rear. Sukkhu protested, whereupon Shoaib and two of his associates started quarrelling with Sukkhu. They turned aggressive and were about to assault Sukkhu. At that point some bystanders, present there, intervened and avoided the situation. In the meantime, Shoaib, who is a resident of Baiswada, called up other henchmen of his. In a short while, his associates arrived at the scene and one of them assaulted Sukkhu with a knife repeatedly, injuring him in the neck, shoulder and inflicting serious injuries to other parts of the body. Sukkhu fainted.

3. The informant, upon receiving information and, others in the village, promptly moved Sukkhu to the Community Health Centre, Ghosi. There, the doctor opined his condition to be serious and referred him to the District Hospital, Mau. His condition could not be stabilized there in consequence of which, the District Hospital referred the victim to the Banaras Hindu University, that is to say, the Medical College Hospital there. The informant closed her information with words that her son's condition continues to be very serious. She requested the registration of a case and action against the culprits.

4. The petitioner has come up with a case that after registration of the FIR, the Investigation Officer commenced investigation, recording the statement of the informant Smt. Sharda Devi on 16.11.2024, under

Section 180 of the Bharatiya Nagrik Suraksha Sanhita, 2023. She supported her case in the FIR. The Investigating Officer recorded a supplementary statement of the informant under Section 180 of the Bharatiya Nagrik Suraksha Sanhita, 2023 on 23.12.2024 where, for the first time, the name of the co-accused, Arshalan and Danish came to light. In her statement, she assigned the role of assault by knife to Danish and Arshalan.

5. The Investigating Officer proceeded to record the statement of the victim Sukkhu Rajbhar on 18.01.2025 where he said that on 15.11.2024, at 06.30 in the evening hours, he was returning home from the *bazar* where he had taken his niece. As he reached the Madhuban Turn, Shoaib Khan proceeded from the opposite direction, along with two of his associates, riding a motorcycle and hit the victim's motorcycle. The victim has said that when he asked them the cause for the unnecessary bump to his vehicle, the three riders abused him. In the meantime, a multitude of people gathered on the spot. Shoaib called his other henchmen, that is to say, Danish Khan and Arsalan, who arrived on the scene and beat up the victim. All of a sudden, in order to do him to death, the said persons assaulted the victim with a knife blow to his neck injuring him. He was writhing in pain when the accused, abusing him and extending death threats, made good their escape from the scene of crime. During further investigation, the Police showed the recovery of the offending knife from Arshalan's possession along with a motorcycle key.

6. The petitioner's bail application was rejected by the learned Sessions Judge *vide* order dated 27.02.2025 but he was enlarged on bail *vide* order of 5th May, 2025 passed by this Court in Criminal Misc. Bail Application No. 12028 of 2025.

7. The Station House Officer of the police station concerned and the Circle Officer sponsored the petitioner's detention under the NSA, reporting a case of breach of public order. By a report dated 17.11.2024, annexing therewith necessary material, the Additional Superintendent of Police, Mau forwarded the recommendation to the Superintendent of Police, also on 17.11.2024. The Superintendent of Police, Mau recommended the case to the District Magistrate for a preventive detention under the NSA on 18.11.2024. The District Magistrate proceeded to pass the order of detention on 19.11.2024 under Section 3(2) of the NSA. Along with the order of detention, the petitioner was supplied the grounds of detention, also dated 19.11.2024. The grounds supplied to the petitioner indicated his remedies against the detention order under the provisions of the NSA.

8. The petitioner submitted a representation against the order dated 19.11.2024 on 30.12.2024. Though, it is averred in paragraph no. 17 of the writ petition that the petitioner submitted a representation dated 30.12.2024 to "higher officials" against the detention order dated 19.11.2024, said to be annexed as annexure no. 9 to the writ petition, but the said document is not at all annexed. In fact, there is no document

annexed or even index marked Annexure no. 9 or dated 30.12.2024, in the writ petition paper book.

9. As it appears from the record, the order of detention, made by the District Magistrate, was confirmed by the State Government under Section 12(1) of the NSA, upon receipt of the Advisory Board's report, directing the petitioner to be detained for a period of twelve months with effect from 19.11.2024.

10. Aggrieved, this habeas corpus writ petition was instituted on 30.07.2025 and defects were removed on 08.08.2025. It came up before the Court on 14.08.2025 when the learned Additional Government Advocate was granted two weeks' time to file a counter affidavit, ordering the matter to be laid as fresh again on 01.09.2025. On 01.09.2025, two weeks' further time was granted to file a counter affidavit, adjourning the matter as fresh to 22.09.2025. On 22.09.2025, a counter affidavit was filed on behalf of the District Magistrate which was taken on record and the matter adjourned to 13.10.2025. On 13.10.2025, when the writ petition came up, this Court noticed that the Jail Superintendent, Mau had not been impleaded. Accordingly, the petitioner was permitted to implead the said respondent during the course of the day. A counter affidavit was filed on behalf of the State of U.P. which was taken on record. The District Magistrate's counter affidavit, having already been filed on 22.09.2025, this Court proceeded to admit the writ petition to hearing and issued *rule nisi* returnable on 28.10.2025.

11. The petitioner was granted two weeks' time to file rejoinders to the counter affidavits filed on behalf of the District Magistrate and the State Government. When the writ petition came up on 28.10.2025, a counter affidavit was filed by the Union of India, which was also taken on record. Learned Counsel for the petitioner waived his right to file a rejoinder to the Union's counter affidavit. The matter being ready, we proceeded to hear it on 28.10.2025 reserving judgment.

12. Heard Mr. Syed Irfan Ali, learned Counsel for the petitioner in support of this petition, Mr. Deepak Mishra, learned Additional Government Advocate appearing on behalf of respondent nos. 1, 2, 3 and 5, and Mr. Manish Pandey, learned Counsel appearing on behalf of the Union of India.

13. It is argued by Mr. Syed Irfan Ali, learned Counsel for the petitioner that the petitioner was arrested in connection with Case Crime No. 530 of 2024 under Sections 3(5), 118(1) and 109(1) of the Bharatiya Nyaya Sanhita, 2023, Police Station- Ghosi, District- Mau, lodged against him and two unnamed offenders whose names surfaced during investigation. The petitioner applied for bail which was granted by this Court *vide* order dated 05.05.2025.

14. It is urged on behalf of the petitioner by learned Counsel that when the petitioner applied for release, the fact was brought to his notice that he had been detained under Section 3(2) of the NSA *vide* orders dated 19.11.2024 and 31.12.2024, in consequence of which he would

have to remain incarcerated in prison for a period of twelve months, reckoned with effect from 19.11.2024.

15. It is pointed out that the Police have submitted a report dated 15.11.2024, saying that the incident, which took place leading to the FIR against the petitioner, lead a retaliatory mob/group of people to enter the hospital where the injured Sukkhu and the petitioner Shoaib were both receiving medical treatment. The mob disturbed the hospital by ransacking it, breaking the furniture and window panes. The Police registered Case Crime No. 532 of 2024, under Sections 132 & 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(a) & 3(b) of the Uttar Pradesh Medicare Service Persons and Medicare Service. Institutions (Prevention of Violence and Damage to Property) Act, 2013. The said FIR, at the instance of the Police was registered against two hundred unknown offenders.

16. It is submitted that the petitioner had nothing to do with anything adversely affecting public order, but, it was the other way round, as the FIR lodged by the Police would show. It is next emphasised that the FIR lodged by the Police shows that the petitioner Shoaib and Sukkhu were both injured and receiving treatment when the hospital where they were admitted was attacked by a mob. There is no allegation in the said FIR about Shoaib leading a mob to do violence of any kind. Therefore, there can be no case of public order compromised by or at the instance of the petitioner.

17. It is also submitted by the learned Counsel for the petitioner that according to the FIR lodged by the Police, there was no damage to public property, apart from some vehicles damaged by the mob. There are several C.C.T.V. footage which would show that, at no stage, the petitioner or his family members are seen provoking the mob to attack and subvert public order.

18. It is next submitted by learned Counsel for the petitioner that due to registration of a single crime, in connection with which he was already in police custody and taken to the hospital for treatment, the Police have submitted a false report attributing violation of public order to the petitioner or on account of his actions, causing him to be incarcerated in prison under the NSA for a period of twelve months.

19. It is also said on the petitioner's behalf, by the learned Counsel, that he is a poor labourer with no influence in society. He was himself injured in the violence which took place on the road at the hands of a mob alleged to have been collected or organized by the petitioner. The Police report, sponsoring the petitioner's detention, is absolutely illegal.

20. It is pointed out by learned Counsel for the petitioner that the first incident took place on 15.11.2024 at 6.30 p.m. where the FIR was lodged on 16.11.2024, at twenty minutes past midnight. The second FIR, in relation to mob violence, was lodged against two hundred unknown persons on 16.11.2024 at fifteen minutes past seven in the evening. The petitioner was taken into custody by the Police in the evening of

15.11.2024 but his arrest has been shown on 19.11.2024, illegally. The petitioner says that he has already spent eleven months nine days in jail.

21. It is also pointed out by learned Counsel for the petitioner that the petitioner has clean antecedents, except two cases which have been lodged against him. There is no recovery from his person or possession or at his pointing out, showing his complicity in the crime.

22. In the return filed on behalf of the District Magistrate, it is averred that the offence committed by Shoaib on 15.11.2024 disrupted public order and there was a possibility of the petitioner committing further criminal acts which would adversely impact the maintenance of public order. Therefore, in order to prevent him from committing acts that would adversely affect the maintenance of public order, the detention order dated 19.11.2024 was passed by the District Magistrate under Section 3(2) of the NSA. The detention order was sent to the State Government where, after necessary advice, it was confirmed *vide* order dated 31.12.2024. It is averred in paragraph no. 25 that the petitioner was informed of the detention order dated 19.11.2024 and his right to file a representation against the detention order to the detaining Authority as well as the Advisory Board, besides the Central Government setting forth the calendar of events relating to the petitioner's detention.

23. In his return, the District Magistrate has averred in paragraph nos. 4 to 13 that the detention order was passed on 19.11.2024 and served upon the detenue in jail. On 19.11.2024 itself, the grounds of detention

were served upon the detenue in jail as well, in accordance with Section 8 of the NSA. The detention order and the grounds of detention were sent to the State Government for approval on 19.11.2024 and also to the Advisory Board on the said date. The State Government gave its approval on 27.11.2024 and it has been communicated to the detenue on the same day. The detention order was sent to the Central Government, together with the grounds, also on 19.11.2024. The District Magistrate and the State Government forwarded the matter to the Advisory Board on 19.11.2024.

24. The Advisory Board gave its opinion to the State Government on 27.11.2024. After receipt of the Advisory Board's opinion, the State Government confirmed the detention order on 31.12.2024 for a period of twelve months from the date of detention. The detenue's representation, made to the District Magistrate on 13.12.2024, was decided on the same day. His representation to the State Government dated 13.12.2024 was rejected on 24.12.2024. The detenue's representation to the Central Government dated 13.12.2024 was rejected on 01.01.2025.

25. In the State's counter affidavit filed by Chandra Bhan Maurya, an Under Secretary to the State Government in the Department of Home (Confidential), it is stated that the detention order, together with the grounds, were forwarded by the District Magistrate *vide* his letter dated 19.11.2024 and were received by the State Government on 20.11.2024. After examining all aspects of the matter, in careful detail, the Government approved the detention order on 27.11.2024. The approval

was communicated to the petitioner through the district Authorities by the State Government's radiogram and letter, both dated 27.11.2024 that is within twelve days from the date of detention, as required by Section 3(4) of the NSA.

26. It is next submitted that a copy of the detention order, together with the grounds and all other relevant documents, received from the District Magistrate, Mau, were sent to the Central Government *vide* letter dated 27.11.2024 within seven days from the date of approval by the State Government as required under Section 3(5) of the NSA. There is thus no breach of the provisions of Section 3(4) or 3(5) of the NSA.

27. The State's counter affidavit next details the fact that the petitioner was detained under the NSA on 19.11.2024 that is on the date of service of the detention order upon him. His case was referred to the U.P. Advisory Board (Detentions), Lucknow by the State Government by forwarding the detention order, grounds of detention and all other related papers on 27.11.2024 well within three weeks from the date of his actual detention, as required *vide* Section 10 of the NSA. The petitioner's representation dated 13.12.2024, along with para-wise comments, was received in the concerned Section of the State Government on 16.12.2024, accompanied by a letter of the District Magistrate dated 13.12.2024. The State Government sent copies of the representation and para-wise comments thereon to the Central Government and to the U.P. Advisory Board *vide* separate letters both dated 16.12.2024.

28. It is averred that the concerned Section of the Home Department of the State Government examined the representation on 17.12.2024. The Under Secretary exmined the representation on 18.12.2024 and the Joint Secretary on 19.12.2024. The Special Secretary scrutinized the representation on 20.12.2024, subsequently, the Secretary to the State Government examined it on 23.12.2024. Finally, the Additional Chief Secretary (Home) examined the representation also on 23.12.2024. The file was then submitted to the higher Authorities for final orders of the State Government. After due consideration, the said representation was rejected by the State Government on 24.12.2024. This information was communicated by the State Government to the petitioner through the District Authorities *vide* radiogram dated 26.12.2024. It is asserted in the State Government's return that the petitioner's representation has been dealt with expeditiously at every stage.

29. It is further asserted that the Advisory Board, *vide* letter dated 13.12.2024, informed the State Government that the petitioner's case would be taken up for hearing on 18.12.2024 and the petitioner be informed that if he desires to attend the hearing before the Board, along with his next friend (non-Advocate), he could do so and be allowed to do so. The fact was communicated to the petitioner through the District Authorities *vide* letter dated 13.12.2024. The petitioner appeared for hearing before the Advisory Board on the date fixed. The Advisory Board, after hearing the petitioner in person, as well as the Government officials sent their report expressing opinion that there is sufficient cause to order preventive detention under the NSA. The said report and records

were received in the concerned Section of the State Government on 23.12.2024 *vide* a letter of the Registrar, U.P. Advisory Board dated 20.12.2024 well within seven weeks from the date of detention of the petitioner, as provided in Section 11(1) of the NSA.

30. It is further averred that the State Government, once again, examined the matter afresh, along with the opinion of the Advisory Board and took a decision to confirm the detention order and, also, directed the petitioner to be kept in detention for a period of twelve months from the date of his actual detention that is 19.11.2024. Accordingly, the orders of confirmation, ordering the detention for an entire period of twelve months, were passed by the State Government on 31.12.2024 which were communicated, both through radiogram and letter on the said date to the petitioner.

31. In the rejoinders that have been filed to the two counter affidavits on behalf of the District Magistrate, there is no case of unexplained delay in confirmation or approval of the detention order by the various Authorities under the NSA or the decision of the detenue's representations.

32. In the counter affidavit, filed on behalf of the Central Government by Meena Sharma, an under Secretary to that Government, it is stated that no copy of the representation dated 30.12.2024 has been received by the concerned Section in the Ministry of Home Affairs so far. However, a copy of an undated representation (attested by the Jail Authority on 13.12.2024), preferred by the detenue, was considered and request for

revocation of the detention order dated 19.11.2024 rejected by the Central Government. This information was communicated to the detenue, along with concerned Authorities, *vide* wireless message dated 01.01.2025. The entire schedule of various steps taken regarding receipt, consideration and decision of the petitioner's representation are indicated in paragraph nos. 4(I) to 4(VIII) of the Central Government's return as follows:

> "I. A copy of undated representation (attested by jail authority on 13.12.2024) of the detenu along with parawise comments of the detaining authority dated 13.12.2024, duly forwarded by the Government of Uttar Pradesh vide letter dated 16.12.2024 was received in the section concerned of Ministry of Home Affairs on 27.12.2024.
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> II. The representation of the detenu along with parawise comments of the detaining authority was examined at the section level and thereafter, put up to the Under Secretary on 27.12.2024.
>
> III. Thereafter, there was an intervening period of two days on 28.12.2024 and 29.12.2024 being Saturday and Sunday.
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> IV. The Under Secretary with her comments forwarded the file to the Deputy Secretary on 30.12.2024.
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> V. The Deputy Secretary after examining the file forwarded the same to the Joint Secretary on 30.12.2024.
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> VI. The Joint Secretary after consideration and examining the file forwarded the same to the Union Home Secretary on 31.12.2024.
>
> VII. The Union Home Secretary having carefully gone through the material on record, including the order of detention, the grounds for detention, the representation of the detenu and the comments of the detaining authority/ State Government thereon concluded that the detenu had failed to bring forth any material cause or grounds in his representation to justify the revocation of the order by exercise of the powers of the Central Government under Section 14 of the National Security Act, 1980. He, therefore, rejected the representation and sent the file back to the Joint Secretary on 31.12.2024.
>
> VIII. The file reached the section concerned through aforesaid level on 01.01.2025. Accordingly, the detenu and the authorities concerned were informed vide Wireless Message No. II/15028/38/2024-NSA dated 01.01.2025. A copy of Wireless Message is enclosed as Annexure CA-1 to this counter affidavit."

33. The opportunity to file a rejoinder affidavit to the Central Government's return has been waived on behalf of the petitioner and no

grievance has been made either, during the hearing, that there has been any unexplained delay in forwarding the petitioner's representation to the Central Government by the State Authorities or its consideration and decision by the Central Government.

34. A perusal of the counter affidavit, filed by the Central Government, shows that there is apparently no unexplained delay in consideration for decision of the petitioner's representation against his detention under the NSA.

35. The crux of the petitioner's submission, against the order of detention, is that this was a case of a simple breach of law and order and not public order at all. It was a solitary incident which did no more than result in violation of the law and order, regarding which an FIR was lodged against the petitioner where, after due consideration, bail was granted by this Court. It is submitted that by clamping the order of preventive detention, the petitioner cannot be deprived of his liberty.

36. The learned Additional Government Advocate, on the other hand, has stated that this is a case of violation of public order as would appear from the grounds of detention.

37. We have perused the grounds of detention and considered the submissions advanced by learned Counsel for parties.

38. A perusal of the grounds of detention show that Shoaib Khan assaulted Sukkhu over a minor altercation resulting from an accident – a slight bump to the motorcycles ridden by them. After calling to his aid,

two of his associates, Arshalan and Danish, Sukkhu was repeatedly stabbed on his neck and shoulder, leading to the latter sustaining grievous injury.

39. The grounds of detention further say that while Sukkhu was being given medical treatment in the hospital, a multitude of people, siding with Shoaib, landed at the hospital. The men from Sukkhu's village also arrived at the Community Health Centre, Ghosi in large numbers and sharp words were exchanged between the two. In no time, the crowd turned belligerent, indulging in a free fight and stone pelting. This led to a pandemonium in the hospital. The patients and those who had come to take care of them were struck by fear so much so that they fled the hospital leaving behind their footwear. On account of violence by the crowd, the doors and windows of the hospital ward, labour room and the operation theatre, the laboratory windows and doors, together with the doors and windows of other rooms, besides valuable equipments were all damaged. Due to the aforesaid incident, the patients are not coming over to the hospital out of fear, leading to medical services available to the sick being obstructed. Shopkeepers, who had their shops at the gate of the hospital also took to their heels.

40. Looking to the aggression of both sides, on the spot, additional forces had to be summoned, who tried to pacify the warring factions leading to policemen sustaining injuries. After much effort, the crowd was persuaded to return and the injured Sukkhu was referred to the district hospital for treatment.

41. Upon their return from the hospital, the belligerent crowd collected at Badagaon (Bharauti) in front of the Ghosi Dohrighat main road, numbering a two hundred to two hundred fifty strong, blocking the main road. This information was passed on to the control room and the higher officials. The Incharge of the police station, along with the force available, moved from the Community Health Centre to Badagaon where they saw the crowd in strong numbers blocking the main road, leading to the general public, women and children suffering great inconvenience. The women and children were restive because of the blocked road. The Police, upon reaching there, parked their vehicle on one side of the road and got about their task of persuading members of the crowd to relieve the road obstruction. This led the crowd to turn belligerent. They shouted slogans against the Executive Magistrate and the Police force present, at 08.45 p.m, and hurled abuses at the police party. They resorted to stone pelting and damaged the police vehicle from Police Station- Copaganj bearing registration no. UP 54 G 0281 and another police vehicle from Police Station- Madhuban, bearing registration no. UP 32 EG 3204 and still another from Police Station- Sarailakhansi, bearing registration no. UP 54 G 0283. These vehicles were damaged employing stones that the crowd had at hand.

42. The Station House Officer, Police Station Copaganj, Naval Kishore and the Constable accompanying him and the Circle Officer, Ghosi and the police men accompanying him, were all injured in the mob violence. There was complete mayhem on the spot. The public in the locality, including shopkeepers, took to their heels. The shopkeepers

pulled down their shutters and those living in the locality, closed doors. The blocked public road led women and children held back there to wail. The belligerents were somehow controlled by the available police force. Nevertheless, the crowd damaged the nearby shops, religious places and public property by hurling brick bats, all leading to vitiation of public order. Considering the prevalent situation and to bring it under control, police forces had to be deputed at crossings and tri-junctions, particularly at religious and important sites. The police, for the purpose, were divided into small pickets, sharing their strength with the Provincial Arms Constabulary (PAC, for short) ranks. The entire sensitive area had to be constantly patrolled by the forces in order to restore peace. The belligerent crowds and the public, in general, had to be appealed by the forces to maintain peace. It was after great effort that the situation could be brought under control. Considering the sensitivity of the locale, police force, in strong numbers, had to be deployed to maintain constant vigil.

43. It is recorded in the grounds of detention that Case Crime No. 531 of 2024, under Section 189(2), 191(2), 191(3), 190, 109, 115(2), 121(1), 125, 126(2), 131, 132, 324(4), 352 & 351(2) of the Bharatiya Nyaya Sanhita, 2023, Section 7 of the Criminal Law Amendment Act, 1932 and Section 2/3 of the Prevention of Damage to Public Property Act, 1984, was registered against Upendra and thirty eight others, besides two hundred fifty to three hundred unknown offenders at Police Station-Ghosi, District- Mau on 16.11.2024.

44. It is mentioned in the grounds, further, that the aforesaid incident compelled widespread deployment of forces where the Station House Officer, Police Station- Dohrighat, Station House Officer, Police Station- Copaganj, Station House Officer, Police Station- Madhuban, together with their forces, besides Police from the other stations of the district and the PAC, all had to be deployed to restore law and order. The Deputy Inspector General of Police, Azamgarh Range ordered two Circle Officers and five Station House Officers, together with their force and men, numbering fifty two from other police stations, besides five Sections of the PAC to be deployed to restore order.

45. It is also noted in the grounds of detention that in the assault by the crowd, Circle Officer, Ghosi, Dinesh Dutt Mishra and Station House Officer, Ghosi, Raj Kumar Singh, besides Station House Officer, Naval Kishore, Constable Rahul Kumar, Constable Sadre Alam, Constable Avnish Yadav, Constable Arpit, Constable Vikas Kumar, Constable Vimlesh Kumar Tiwari and Constable Ajay Kumar sustained grievous injuries, apart from the three police vehicles that were damaged in the rampage.

46. After the incident dated 16.11.2024, there was widespread reporting of the riot by Hindi dailies such as Amar Ujala, Hindustan (Varanasi edition), Aaj, Rashtriya Sahara (Varanasi edition), covering the widespread mayhem and riot that happened at Mau, leading to public order being torn asunder. The news were also propagated through electronic and social media.

47. The petitioner's act, which led to precipitation of all these events, also caused members of the Hindu community to be enraged, leading them to riot at Bharauti where members of the police force received injuries, besides the vehicles being damaged.

48. The grounds say that the petitioner's action have led to such widespread disturbance that the public order has been adversely affected and vitiated. A written information had been received from the Superintendent, Community Health Centre, Ghosi addressed to the Station House Officer, Police Station- Ghosi saying that on account of the incident dated 15.11.2024, the officials and employees of the Community Health Centre are in great fear. They apprehended that there could be outbreak of riot any time and this is leading to the officers and employees not being available to the Community Health Centre for discharging their duties. The Superintendent requested the deployment of security forces within the Community Health Centre campus.

49. After the said incident, the Principals of schools, such as the Shabnam Children English School, Ghosi, Mau, the Saint Novert School Ghosi, Mau and the Little Flower Children School Bagawan, Ghosi, Mau, addressed applications to the District Level Authorities that on account of the riot, the parents and guardians of children who study in these schools are very scared to send them forth. It is said in the grounds that it is seriously apprehended that a riot may erupt anytime on account of the wanton elements vitiating public order.

50. The grounds further mention that Beat Constables, Narendra Nishad and Anand Pandey had reported regarding the incident that during their beat duties, members of the Muslim community had gathered there and saying that Shoaib was planning to flee in order to escape attention of the Police and the Administration, organize his associates and planning to do something big. This planning was done to teach members of the Hindu community a lesson with rumours being rife that Shoaib was saying that nothing had happened so far and a lot had yet to be done. It was also reported that Shoaib and his associates would say that the Administration can bring them no harm.

51. It is then recorded in the grounds that in order to place the petitioner under arrest, in connection with the crime, a team, comprising the Additional Superintendent of Police, Ghosi, besides other officers, was constituted on 16.11.2024. The incident had led to such widespread vitiation of public order that shopkeepers had closed shops and the public, in general, had stopped moving on the roads. Parents and guardians of children were not sending forth their wards to attend school. Working men and women stopped attending their duties and the sick were not able to reach hospital. They were lying behind closed doors in their homes. All these clearly show that public order had become a casualty. In order to restore order, Police force, in strong numbers, had to be deployed constantly.

52. It is also recorded in the grounds that confidential information had been gathered from some supporters of the petitioner that during period

that the petitioner was fleeing justice, he had sworn to kill Smt. Sharda Devi and witnesses of the case against him. Shoaib's supporters were roaming the area extending threats on account of which there was an atmosphere of fear prevailing, leading to vitiation of public order, constantly.

53. It is recorded then, in the grounds, that the petitioner indulged in actions that led to widespread vitiation of public order and there is possibility that in the future, as well, the petitioner would indulge in acts that would lead to similar violations of public order. It is for the reason that it was necessary to prevent the petitioner from causing disruption of public order that he was found fit to be detained under the NSA.

54. It is true that the act attributed to the petitioner and his companions of assaulting Sukkhu with a knife, over a small incident of bumping of their motorcycles, might be a simple case of violation of law and order for which the petitioner could be charge-sheeted, charged and tried in accordance with law and punished, but it is the direct fall out of the said action that widespread riot and communal tension between the two communities was precipitated that resulted in vitiation of public order. The subsequent conduct of the petitioner that is mentioned in the grounds also shows that he was planning to indulge in similar acts in order to teach the other side a lesson. The impact of his first act that lead to communal dissension and rioting, damage to public property, including a public medical facility, injury to police personnel, damage to police vehicles, and, above all, a widespread throwing out of gear the

even tempo of life in the locale, certainly amounts to an act which vitiated public order. The other information received about the petitioner by the detaining Authority, showing his determined intention to indulge in similar acts, makes the danger of violation of public order a potent possibility that had to be curtailed by invoking powers under Section 3(2) of the NSA.

55. In testing whether an offence constitutes public order, it is not to be seen in isolation. A single offence may be just the violation of law and order or it may result in violation of public order depending on the circumstances in which the act is done. The *locus classicus* on the point is **Ram Manohar Lohia v. State of Bihar and another, AIR 1966 SC 740**, where their Lordships of the Constitution Bench held:

> "54. 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 disorders or only some of them? 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 if 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.

> 55. It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State. By using the expression "maintenance of law and order" the District Magistrate was widening his own field of action and was adding a clause to the Defence of India Rules."

56. The case pertained to a detention under the Defence of India Rules, 1962 but what would constitute 'public order' and its relation to 'law and order' finds eloquent exposition that is very relevant to the facts, obtaining in this case as well. The point illustrated, in paragraph 54 of the report in **Ram Manohar Lohia** (*supra*), about the two drunkards quarreling and fighting, is squarely attracted to this case as well. The illustration, about the fighting drunkards, belonging to two different communities, whose fight under the circumstances would raise communal passions, is the point involved here. The information, about the petitioner, pursuing his vendetta not only against Sukkhu but members of the other community, was a positive index of the forthcoming, imminent likelihood of violation of public order where there could be riots galore, if the petitioner was not prevented.

57. The point that was sought to be made on behalf of the petitioner that, after all, it was a single act which constituted an offence, at the most a violation of law and order, is also without substance. A single act has consistently been held to be sufficient to constitute violation of public order, if it impacts the even tempo of life to that extent in the circumstances that it is committed.

58. The point has been further elucidated in **Arun Ghosh v. State of West Bengal, 1970 (1) SCC 98,** where the concept of 'public order' has been elucidated by their Lordships of the Supreme Court in the following words:

> "3. The submission of the counsel is that these are stray acts directed against individuals and are not subversive of public order and therefore the detention on the ostensible ground of preventing him from acting in a manner prejudicial to public order was not justified. In support of this submission reference is made to three cases of this Court: *Dr. Ram Manohar Lohia v. State of Bihar, Pushkar Mukherjee and Others v. State of West Bengal and Shyamal Chakraborty v. The Commissioner of Police, Calcutta and Another.* In *Dr. Ram Manohar Lohia's* case 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 affect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. Take instance, a man stabs another. People may be shocked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal tension. A man stabs a of a very different sort. Its implications are deeper and it affects the even tempo of life and public order is jeopardized because the repercussions of sis an act the act embrace large sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Take the case of assault on girls. A guest at a hotel may kiss or make advances to half a dozen chamber maids. He may annoy them and also the management but he does not cause disturbance public order. He may even fracas with the friends of one of the girls but even then it would be a case of breach of law and order only. Take another case of a man who molests women in lonely places. As a result of his activities and schools are in constant danger and fear. Women going for their ordinary business are afraid of being waylaid and assaulted. The activity of this man in its essential quality is not different from the act of the other man but in its potentiality and in its affect upon the public tranquillity there is a vast difference. ice. The act of the man who molests the girls in lonely places causes a disturbance in the even tempo of living which is the first requirement of public order. He disturbs the society and the community. His act makes all the women apprehensive of their honour and he can be said to be causing disturbance of public order and not merely committing individual actions which may be taken note of by the criminal prosecution agencies. It means therefore that the question whether a man has only committed a breach of law and order

> or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society. The French distinguish law and order and public order by designating the latter as order publique. The latter expression has been recognised as meaning something more than ordinary maintenance of law and order. Justice Ramaswami in Writ Petition No. 179 of 1968 drew a line of demarcation between the serious and aggravated forms of breaches of public order which affect the community or endanger the public interest at large from minor breaches of peace which do not affect the public at large. He drew an analogy between public and private crimes. The analogy is useful but not to be pushed too far. A large number of acts directed against persons or individuals may total up into a breach of public order. In *Dr. Ram Manohar Lohia's* case examples were given by Sarkar and Hidayatullah, JJ. They show how similar acts in different contexts affect differently law and order on the one hand and public order on the other. It is always a question of degree of the harm and its affect upon the community. The question to ask is Does it lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed? This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another."

59. In this regard, reference may be made to the **State of U.P and another v. Sanjai Pratap Gupta alias Pappu and others, (2004) 8 SCC 591**. In **Sanjai Pratap Gupta alias Pappu** (*supra*), it has been held:

> "14. The stand that a single act cannot be considered sufficient for holding that public order was affected is clearly without substance. It is not the number of acts that matters. What has to be seen is the effect of the act on the even tempo of life, the extent of its reach upon society and its impact."

60. In **Nenavath Bujji v State of Telangana, 2024 SCC OnLine SC 367**, it has been held:

> 43. We summarize our conclusions as under: -
>
> (i) The detaining authority should take into consideration only relevant and vital material to arrive at the requisite subjective satisfaction,
>
> (ii) It is an unwritten law, constitutional and administrative, that wherever a decision-making function is entrusted to the subjective satisfaction of the statutory functionary, there is an implicit duty to apply his mind to the pertinent and proximate matters and eschew those which are irrelevant & remote,
>
> (iii) There can be no dispute about the settled proposition that the detention order requires subjective

satisfaction of the detaining authority which, ordinarily, cannot be questioned by the court for insufficiency of material. Nonetheless, if the detaining authority does not consider relevant circumstances or considers wholly unnecessary. immaterial and irrelevant circumstances, then such subjective satisfaction would be vitiated,

(iv) In quashing the order of detention, the Court does not sit in judgment over the correctness of the subjective satisfaction. The anxiety of the Court should be to ascertain as to whether the decision-making process for reaching the subjective satisfaction is based on objective facts or influenced by any caprice, malice or irrelevant considerations or non-application of mind,

(v) While making a detention order, the authority should arrive at a proper satisfaction which should be reflected clearly, and in categorical terms, in the order of detention.

(vi) The satisfaction cannot be inferred by mere statement in the order that "it was necessary to prevent the detenu from acting in a manner prejudicial to the maintenance of public order". Rather the detaining authority will have to justify the detention order from the material that existed before him and the process of considering the said material should be reflected in the order of detention while expressing its satisfaction.

(vii) Inability on the part of the state's police machinery to tackle the law and order situation should not be an excuse to invoke the Jurisdiction of preventive detention,

(viii) Justification for such an order should exist in the ground(s) furnished to the detenu to reinforce the order of detention. It cannot be explained by reason(s) / grounds(s) not furnished to the detenu. The decision of the authority must be the natural culmination of the application of mind to the relevant and material facts available on the record, and

(ix) To arrive at a proper satisfaction warranting an order of preventive detention, the detaining authority must, first examine the material adduced against the prospective detenu to satisfy itself whether his conduct or antecedent(s) reflect that he has been acting in a manner prejudicial to the maintenance of public order and, second, if the aforesaid satisfaction is arrived at, it must further consider whether it is likely that the said person would act in a manner prejudicial to the public order in near future unless he is prevented from doing so by passing an order of detention. For passing a detention order based on subjective satisfaction, the answer of the aforesaid aspects and points must be against the prospective detenu. The absence of application of mind to the pertinent and proximate material and vital matters would show lack of statutory satisfaction on the part of the detaining authority.”

61. Upon a scrutiny of the grounds that we have done in ample measure hereinabove, the detention order, impugned in this petition, rests on sound reasoning. There is due application of mind by the

detaining Authority as well as the State Government to come to a subjective satisfaction that the petitioner was required to be detained under the NSA. The grounds of detention are well informed, where details of acts and the resulting facts which showed violation of public order, have been copiously noticed by the detaining Authority. The way the even tempo of life was affected, has been cited with definitive instances in the grounds of detention. The possibility of the detenue repeating acts that may lead to further violation of public order have also been recorded. The subjective satisfaction, in that regard also, is founded on valid and objective material about information that the accused was out to commit further acts of reprisal, not only against the victim of the crime, but members of the other community, at large, in order to teach them a lesson.

62. It is not for this Court to gauge the sufficiency of reasons that made the detaining Authority act under the NSA. We are not a Court of appeal to look into the sufficiency of material or its authenticity, unless it be glaringly absurd and come to a conclusion contrary to that of the Detaining Authority.

63. In the result, we do not find merit in this habeas corpus writ petition. It is, hereby, **dismissed**.

(Sanjiv Kumar, J.) (J.J. Munir, J.)

November 17, 2025
Prashant D.