



J&K Invokes Public Safety Act 1978

Why in News?

The J&K Police have invoked the [Public Safety Act \(PSA\), 1978](#) against several individuals in Srinagar, citing their **role in subversive activities** and **threats to national security and public order**.

- This large-scale detention coincides with ongoing raids by the [State Investigation Agency \(SIA\)](#) in the region.

Key Points

Public Safety Act (PSA), 1978

- **About:**
 - PSA is a **preventive detention law** originally enacted by the former J&K State Legislature and is now enforced in the Union Territory of J&K.
 - Its core objective is to **authorise the detention of individuals in order to prevent acts** that could **threaten state security** or disrupt public order.
 - It is very similar to the [National Security Act, 1980](#) that is used by other state governments for preventive detention.
- **Key Provisions:**
 - **Detention Without Trial:**
 - The PSA allows for the detention of a person **without a formal charge and without trial**.
 - It may be invoked against an individual already in police custody or immediately upon their release on bail by a court of law.
 - Unlike in normal circumstances, a person who is detained under the PSA **need not be produced before a magistrate within 24 hours** as a mandatory provision.
 - **Right to File Bail Application:**
 - The detained person **does not have the right to move a bail application** before the court, and cannot engage any lawyer to represent him or her before the detaining authority.
 - **Section 8 of the PSA:**
 - It defines the grounds for detention and empowers the authorities to detain people acting in any manner prejudicial to the maintenance of public order.
 - **No Distinction Between Offences:**
 - It allows detention for up to **1 year for disturbance of public order** and **2 years for actions prejudicial** to the security of the State.
- **Challenging the Detention:**
 - The only legal remedy against an administrative preventive detention order under the PSA is through a [habeas corpus](#) petition, typically filed by the detainee's relatives.
 - Both the [High Court](#) and the [Supreme Court](#) have the authority to hear such petitions and may quash the detention order if found unlawful.
 - However, even if the court sets aside the order, the government retains the power to issue a fresh detention order under the PSA.
 - Notably, officials who issue such orders are granted legal immunity, and **no prosecution**

or legal proceedings can be initiated against them for exercising this power.

National Security Act, 1980 & Preventive Detention

- The **NSA** is a **preventive detention law** enacted in **1980** to maintain **public order** and **national security**.
- **Preventive Detention** involves the **detainment (containment) of a person** in order to keep him/her from committing future crimes and/or from escaping future prosecution.
 - **Article 22 (3) (b)** of the Constitution allows for preventive detention and **restriction on personal liberty** for reasons of state security and public order.
 - **Article 22(4)** states that no law providing for preventive detention **shall authorize the detention of a person** for a longer period than three months.
 - The detention of a person cannot exceed **three months** unless an advisory board reports sufficient cause for extended detention.
 - **Grounds for Preventive Detention:**
 - State security
 - Public order
 - Foreign Affairs, etc.

Habeas Corpus

- It is a Latin term which literally means **‘to have the body of’**. This writ is a **bulwark of individual liberty** against arbitrary detention.
- It can be issued against **both public authorities as well as private individuals**.
- The writ, on the other hand, is **not issued where the:**
 - detention is lawful,
 - the proceeding is for contempt of a legislature or a court,
 - detention is by a competent court, and
 - detention is outside the jurisdiction of the court.

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