



# Preventive Detention

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## Why in News?

The [Supreme Court \(SC\) of India](#), in *Mortuza Hussain Choudhury vs State of Nagaland, 2025*, reaffirmed that [preventive detention](#) is a draconian measure (severe) requiring strict adherence to constitutional and statutory safeguards.

- The ruling struck down Nagaland's detention orders for lacking proper justification and violating legal principles.

## What is the SC Ruling Regarding Preventive Detention?

- **Case:** Two individuals were preventively detained under the [Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 \(PITNDPS Act\)](#) after a drug seizure, based on police allegations of resumed trafficking if released, but without separate grounds.
- **SC Judgment:** The Supreme Court ruled that the detention orders violated **Section 6 of the PITNDPS Act by lacking separate, specific grounds.**
  - The SC noted that detainees, who did not understand English, were orally informed in Nagamese, but ruled this insufficient, citing the *Harikisan vs. State of Maharashtra (1962)* Constitution Bench ruling, which held that mere oral communication of detention grounds is inadequate.
  - The court stressed that **preventive detention affects fundamental rights** and must strictly comply with statutory norms. Consequently, the court quashed the detention orders.

## What is Preventive Detention?

- **About:** It refers to detaining an individual **without trial** to prevent anticipated unlawful activities.
  - Unlike punitive detention, which follows **due process and conviction**, preventive detention **curtails individual liberty based on suspicion.**
- **Constitutional Provisions:** The protection against arrest and detention under **Articles 22(1) and 22(2) does not apply to individuals detained under preventive detention laws**, as stated in Article 22(3).
  - A person can be detained without trial for up to **three months** unless extended by an **Advisory Board** (consisting of persons qualified to be High Court judges).
  - The detainee must be **informed of the reasons for their detention** unless it harms public interest. They have the **right to legal representation**, although this right can be restricted in certain cases.
- **Key Laws Related to Preventive Detention:**
  - **National Security Act, 1980:** Allows detention to prevent threats to national security and public order.
  - **Unlawful Activities (Prevention) Act, 1967:** Prevents activities threatening India's sovereignty, security, and integrity.

- **Public Safety Act, 1978:** Used in Jammu & Kashmir for preventive detention on grounds of public order and security.
- **Judicial Precedents:** In ***Ameena Begum vs The State Of Telangana (2023)***, the SC ruled that preventive detention is an exceptional measure and must not be used arbitrarily.
  - In the ***Jaseela Shaji vs the Union of India case (2024)***, the Supreme Court ruled that detainees must be ensured a fair opportunity to challenge their detention.

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