GAHC010127432026

2026:GAU-AS:16236-DB

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : W.P.(Crl.)/28/2026

NOOR ALI
S/O- SURUJALI BHUYAN, R/O- VTC JAMUHANDAL, P.O. PADUM PUKHURI, P.S. AND DIST. HOJAI, ASSAM, PIN- 782435.

VERSUS

THE UNION OF INDIA AND 12 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT OF INDIA, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, NEW DELHI, PIN- 110001.

2:THE DEPUTY SECRETARY
(PITNDPS)
GOVT. OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
2ND FLOOR
ROOM NO 202
JEEVAN TARA
BUILDING
PARLIAMENT STREET
NEW DELHI
PIN- 110001.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GHY- 06.

4:THE SECRETARY TO THE GOVT. OF ASSAM

HOME AND POLITICAL DEPARTMENT
DISPUR
GHY- 06
ASSAM

5:THE ADDITIONAL CHIEF SECRETARY
HOME AND POLITICAL DEPARTMENT
GOVT. OF ASSAM
ASSAM SECRETARIAT
CM BLOCK
SECOND FLOOR
DISPUR
GHY-6.

6:THE DETAINING AUTHORITY UNDER PITNDPS ACT AND THE SECRETARY
TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPARTMENT
GOVT. OF ASSAM
ASSAM SECRETARIAT
CM BLOCK
2ND FLOOR
DISPUR
GHY 06

7:THE ADVISORY BOARD
(UNDER PITNDPS ACT)
REPRESENTED BY THE SECRETARY
HOME AND POLITICAL DEPARTMENT
GOVT OF ASSAM
ASSAM SECRETARIAT
CM BLOCK
2ND FLOOR
DISPUR
GHY
ASSAM- 781006.

8:THE DISTRICT COMMISSIONER
HOJAI
SANKARDEV NAGAR
HOJAI
ASSAM- 782435.

9:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GHY-07.

10:THE ADDITIONAL DIRECTOR GENERAL OF POLICE (CID)
ASSAM
ULUBARI
GHY- 07.

11:THE INSPECTOR GENERAL OF POLICE (CR)
NAGAON
ASSAM

12:THE SUPERINTENDENT OF POLICE
HOJAI
SANKARDEV NAGAR
HOJAI
ASSAM- 782435.

13:THE SUPERINTENDENT
SPECIAL JAIL
NAGAON
FAUZDARIPATTY
NAGAON
PIN- 782003

BEFORE

HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

For the petitioner : Mr. P.R. Sarma, Advocate.
For respondents : Mr. B. Goswami, Addl. A.G.
: Mr. I. Borthakur, GA.

Date on which judgment is reserved : 29.09.2026

Date of pronouncement of judgment: 05.11.2026

Whether the pronouncement is of the operative part of the judgment? : No

Whether the full judgment has been Pronounced? : Yes

JUDGMENT AND ORDER

(CAV)

(K.R. Surana, J.)

Heard Mr. P.R. Sarma, learned counsel for the petitioner. Also heard Mr. B. Goswami, learned Addl. Advocate General, assisted by Mr. I. Borthakur, learned Govt. Advocate for the State.

2) By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Noor Ali, who has been detained pursuant to detention order no. eCF-632573/80 dated 17.10.2025, passed by the Secretary to the Government of Assam, Political (A) Department, has assailed the said detention order dated 17.10.2025; order no. eCF/ 632573/77 dated 17.10.2025, containing the grounds of detention of the petitioner and for other reliefs.

3) As per the contents of the detention order dated 17.10.2025, a police report and connected records were laid before the Secretary to the Government of Assam, Political (A) Department (hereinafter referred to as "the detaining authority") by the following three authorities, viz., (i) the Inspector General of Police (CR), Nagaon, Assam, vide letter no. CR/41-HJI/2025/95 dated 10.01.2025; (ii) the Superintendent of Police, Hojai, Assam, vide letter under memo no. IV/HJI/Crime/2024/3373 dated 30.12.2024; and (iii) the Addl. Superintendent of Police (Crime), Hojai, Assam, vide letter under Memo No. IV/RS/HJI/2025/165 dated 15.05.2025. Thus, it was proposed to detain Nur Ali, son of Suruj Ali, resident of Jamuhandal, P.S. and Dist. Hojai, Assam, with a view to preventing him from engaging in illegal and harmful activities of illicit business of narcotic drugs and from the repeated violations of the provisions under the NDPS Act, 1985. The said detaining authority had also observed that

from the police reports and connected records, it appeared that the petitioner has persistently involved himself with the crime of illegal business of narcotic drugs since many years and was arrested in following cases, viz., (i) Hojai P.S. Case No. 20/2023 under section 20(c) of the NDPS Act, 1985; (ii) Hojai P.S. Case No. 354/2023 under section 21(c)/29 of the NDPS Act, 1985; and (iii) Lanka P.S. Case No. 351/2024 under section 21(c)/29 of the NDPS Act, 1985. The seized substances had tested positive for (i) cannabis (ganja), (ii) methamphetamine, and (iii) heroin. Moreover, as intimated by the Superintendent of Police, Hojai, Assam, in his letter dated 30.12.2024, that the petitioner, Nur Ali has been found to be a repetitive offender under various sections of NDPS Act, 1985 and his detention under PITNDPS Act, 1988 is imperative to keep him out of business of illicit trafficking in narcotic drugs and psychotropic substances and break the network of drugs supply in the district of Hojai. Accordingly, the detaining authority named therein had recorded its satisfaction that the petitioner has been acting in a manner prejudicial to the provisions under NDPS Act, 1985 by continuously indulging in illicit trade in narcotic drugs even after his arrest several times and therefore, in exercise of power under Section 3(1) of the PITNDPS Act, 1988, the said order was issued, directing detention of the petitioner under Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PITNDPS Act, 1988) till further order.

4) Along with the said detention order dated 17.10.2025, the petitioner was also served with a copy of the Grounds of Detention, under memo no. eCF-632573/77 dated 17.10.2025, amongst others, communicating to the petitioner the sequence of events leading to arrest of the petitioner in connection with their herein before referred (i) Hojai P.S. Case No. 20/2023

under section 20(c) of the NDPS Act, 1985; (ii) Hojai P.S. Case No. 354/2023 under section 21(c)/29 of the NDPS Act, 1985; and (iii) Lanka P.S. Case No. 351/2024 under section 21(c)/29 of the NDPS Act, 1985 and the corresponding charge-sheets, being (i) Hojai P.S. CS No. 229/2023 dated 07.07.2023, under section 20(c) of the NDPS Act, 1985; (ii) Hojai P.S. CS No. 418/2023 dated 31.12.2023, under section 21(c)/29 of the NDPS Act, 1985; and (iii) Lanka P.S. CS No. 47/2025 under section 21(c)/29 of the NDPS Act, 1985. The petitioner was informed that the petitioner was indulging in illegal business in narcotic drugs, and is a mastermind in illegal drug business in Hojai and Lanka and other parts of Hojai District and he was also luring youths into this illegal but lucrative trade for easy money and is also turning youths of the society into drug addicts and that despite his repetitive arrest, he had not mended his ways and without remorse, was continuously indulging in criminal activities with help of his accomplices. Moreover, the petitioner was informed that on being enlarged on bail, he was repeating same offence again and that he was one of the main conduits through whom drugs are supplied to to the district. Thus, his detention was necessary to deter his accomplices from illegal trafficking of drugs to protect the younger generation of the State from the menace of drugs in the district of Hojai, thus, he is being detained under PITNDPS Act, 1988. The petitioner was informed of his right to make representation before (i) State Government (addressed to authority named therein), (ii) detaining authority (named therein), (iii) Advisory Board (authority named therein), and (iv) Govt. of India (addressed to authority named therein).

5) As per the said grounds of detention, the petitioner was furnished with photocopies of (i) FIR, seizure list, FSL report, and charge-sheet connection with Hojai P.S. Case No. 20/2023 under section 20(c) of the NDPS

Act, 1985 (marked as Annexure-A1, A2, A3 and A4); (ii) FIR, seizure list, FSL report, and charge-sheet connection with Hojai P.S. Case No. 354/2023 under section 21(c)/29 of the NDPS Act, 1985 (marked as Annexure-B1, B2, B3 and B4); and (iii) FIR, seizure list, FSL report, and charge-sheet connection with Lanka P.S. Case No. 351/2024 under section 21(c)/29 of the NDPS Act, 1985(marked as Annexure-C1, C2, C3 and C4).

6) The gist of submissions of the learned counsel for the petitioner is that the detention order is vitiated for the following reasons:-

a. The photocopies of FIR, seizure list, FSL report, and charge-sheet referred as annexures in the grounds of detention, was not served to the petitioner.

b. For passing the detention order, the detaining authority had placed reliance on three communications, viz., (i) the Inspector General of Police (CR), Nagaon, Assam, vide letter no. CR/41-HJI/2025/95 dated 10.01.2025; (ii) the Superintendent of Police, Hojai, Assam, vide letter under memo no. IV/HJI/Crime/2024/3373 dated 30.12.2024; and (iii) the Addl. Superintendent of Police (Crime), Hojai, Assam, vide letter under memo no. IV/RS/HJI/2025/165 dated 15.05.2025. Accordingly, it was submitted the detaining authority had failed to explain the delay because the petitioner was detained on 12.05.2026, i.e. after about one year from the last communication and about 7 (seven) months from the date of passing of the detention order.

c. The petitioner was not explained the detention order in a language which he could comprehend. It has been projected that the petitioner was not conversant with English, in which the detention order and

other materials were served, which ought to have been explained to him in Assamese.

d. It was submitted that the contents of the detention order was factually incorrect because (i) his name is Noor Ali, which is wrongly mentioned as Nur Ali, (ii) his father's name is Surujali Bhuyan, but it was wrongly written as Suruj Ali, (iii), wrong year of birth was mentioned; (iv) wrong class upto which the petitioner had read was mentioned. Thus, there was a confusion as to whom the said detention order was addressed.

e. The Advisory Board had not taken an early decision on reference, if any made by the State Government. It was submitted that the petitioner is not aware of order, if any, passed by the Advisory Board, as the same has not been communicated to the petitioner.

7) By referring to additional affidavit filed on 25.06.2026, the petitioner had brought on record, representations submitted by the petitioner before the respondent nos. 2, 3, 6 and 7. By referring to the affidavit-in- reply filed by the petitioner against the affidavit-in- opposition filed by the respondent nos. 3, 4 and 5, it was submitted that the petitioner had not explained the delay of 4 (four) days in forwarding his representation to the authorities. It was submitted that the petitioner was arrested on 12.05.2026 and detained since 13.05.2026, but the first sitting of the Advisory Board in the matter of the petitioner was on 08.06.2026. It was submitted that the petitioner had submitted representation on 08.06.2026, but the same was received by the authority on 22.06.2026 and the same was received by the PITNDPS Division on 29.06.2026, but the said authority had kept it in abeyance, awaiting report/opinion of the State Advisory Board, Assam. Thereafter, the Deputy

Secretary to the Government of India had mechanically rejected the representation of the petitioner.

8) In support of his submissions, the learned counsel for the petitioner had cited the following cases:-

a. *Sushanta Kumar Banik v. State of Tripura & Ors., (2022) 13 SCR 484*.
b. *Kamlesh Kumar Ishwardas Patel v. Union of India & Ors., (1995) 4 SCC 51*.
c. *Jayanarayan Sukul v. State of West Bengal, (1970) 1 SCC 219*.
d. *Haradhan Saha v. State of West Bengal & Ors., (1975) 3 SCC 198*.
e. *Nenavath Bujji v. State of Telengana, (2024) 17 SCC 294*.
f. *Shaik Hanif v. State of West Bengal & Ors., (1974) 1 SCC 637*.
g. *Pebam Ningol Mikoi Devi v. State of Manipur & Ors., (2010) 9 SCC 618*.
h. *Mrs. Nafisa Khalifa Ghanem v. Union of India & Ors., (1982) 1 SCC 422*.

9) Per contra, the learned Addl. Advocate General for the State had submitted that the petitioner was repetitively arrested for offence involving commercial quantity of narcotic drugs and psychotropic substances like cannabis, methamphetamine and heroin, for which three police cases were registered at Hojai and Lanka within Hojai District. It was submitted that the petitioner is not only the kingpin of the illicit drug business in the said district, but he is also involved in luring youths of the district into drug business by making them drug peddlers and drug addicts. It was submitted that the projection of the petitioner that he was not served with photocopies of FIR, seizure lists, FSL reports and charge-sheets is false and contrary to the records. It is further submitted that the stand of the petitioner that the detention order and grounds of detention were not explained to the petitioner in Assamese is also false because the Senior Superintendent of Police, Hojai, in his report vide Memo No. IV/Reader-PITNDPS/HJI/2026/183 dated 12.06.2026, had reported that the detention order and grounds of detention were served to the petitioner and the grounds were read over and explained to the petitioner in Assamese, a

language known and understood by him, which was done in the presence of independent witnesses and his wife.

10) It was further submitted that though the initial report by the Senior Superintendent of Police, Hojai is dated 30.12.2024, but the correspondence continued between the sponsoring authority and the detaining authority for furnishing further information and clarification. Additional information was furnished vide letter under Memo No. IV/ RSI/HJI/2025/165 dated 15.05.2025. Thus, after careful examination of the proposal, the detention order was passed on 17.10.2025. Hence, it was submitted that the delay, if any, cannot be said to be inordinate, unexplained or mechanical. It was submitted that only after the detaining authority was satisfied that preventive detention was necessary, the said order was passed to prevent the petitioner from engaging in illicit traffic in narcotic drugs and psychotropic substances.

11) By referring to the copy of record produced, it was submitted that after receipt of representation by the petitioner, the authority vide note dated 10.07.2026, desired that an officer be called to explain the delay in execution of the detention order. Thereafter, on 12.06.2026, a draft rejection order was prepared and the same was put up before the Addl. Chief Secretary on 10.07.2026, and it was signed by the said authority on the same day, i.e. 10.07.2026. Thereafter, on receiving the opinion of the Advisory Board on 13.07.2026, a decision was taken by the competent authority to confirm the order of detention for a period of 1 (one) year as per Section 9(f) of the PITNDPS Act. It has been submitted that in all the documents connected with the three police station cases, the name of the accused is Nur Ali, son of Suruj Ali, but only in his representation, someone in whose presence the petitioner had given his LTI, had written the name as Noor Ali. It has been submitted that

the petitioner has not annexed any document like voter list or any other official document to show that the name of father of the petitioner is not Suruj Ali but Surujali Bhuyan. Accordingly, it was submitted that the detention order was not liable to be interfered with.

12) In support of his submissions, the learned Addl. Advocate General had cited the following cases:-

a. *Siba Bhuyan @ Sujal Bhuyan @ Shiva Bhuyan v. The State of Assam & Ors., W.P.(Crl.) 61/2025*.
b. *Bhawarlal Ganeshmalji v. State of Tamil Nadu & Anr., (1979) 1 SCC 465*.
c. *Ankit Ashok Jalan v. Union of India& Ors., (2020) 2 SCR 1047*.

13) Considered the submissions and the cases cited at the Bar and perused the scanned/photocopy of the record produced by the learned Addl. Advocate General. Perused the writ petition; additional affidavit filed by the petitioner; affidavit-in- opposition filed by respondent nos. 3, 4 and 5; affidavit-in-opposition filed by respondent nos. 1 and 2; affidavit-in- reply filed by the petitioner against the affidavit-in- opposition filed by respondent nos. 3, 4 and 5; affidavit-in- reply filed by the petitioner against the affidavit-in- opposition filed by respondent nos. 1 and 2; rejoinder affidavit filed by the respondent nos. 3, 4 and 5.

14) *On the allegation that the name of the petitioner is Noor Ali, son of Surujali Bhuyan and not Nur Ali, son of Suruj Ali:*

a. In the Charge-sheet no. 229/2023 dated 07.07.2023, corresponding to Hojai P.S. Case No. 20/2023 under section 20(c) of the NDPS Act, 1985, the name of the accused is Md. Noor Ali, aged 48 years, son of Suraj Ali.

b. In the charge-sheet no. 418/2023 dated 31.12.2023, corresponding

to Hojai P.S. Case No. 354/2023 under section 21(c)/29 of the NDPS Act, 1985, the name of accused no. 5 is Nur Ali, son of Suruj Ali Bhuyan. However, as on the date of submission of the charge-sheet, the accused no.5 was an absconder. Therefore, his age or date of birth is not recorded in the charge-sheet.

c. In the charge-sheet no. 47/2025 dated 30.03.2025, corresponding to Lanka P.S. Case No. 351/2024 under section 21(c)/29 of the NDPS Act, 1985, the name of the name of accused no.3 is Nur Ali, aged 49 years, son of Late Suruj Ali.

d. The said issue regarding discrepancies in the spelling of the names were also considered and rejected the same.

e. Thus, it appears that the petitioner interchangeably uses his name as Md. Noor Ali, son of Suruj Ali, Nur Ali, son of Surujali Bhuyan and Nur Ali son of Suruj Ali. Therefore, the contention that the detention order contains incorrect names is found unacceptable and thus, the ground projected by the petitioner is without any merit.

15) *Allegation of non-service of photocopies of FIR, seizure list, FSL report, and charge-sheet referred as annexures in the grounds of detention, was not served to the petitioner:*

a. It is well settled in the case of *Jaseela Shaji v. Union of India, (2024) 9 SCC 53*, that the Detaining Authority has to communicate the grounds of detention to the detenue at the earliest and give the detenue an earliest opportunity for making effective representation. It was further held that the detenue must also be furnished with all the documents relied upon for passing the detention order so that the right

to make representation becomes an effective right. It has also been laid that the representation submitted by the detenue requires expeditious disposal and all the intermediary authorities like jail staff, etc. must also act with promptitude to transmit the representation and for that purpose, they may rely on electronic communications, etc. It was held that an unexplained delay in such communication on the part of such intermediary authorities would also vitiate the detention order.

b. The records annexed to the affidavit-in- opposition filed by the respondent nos. 3, 4 and 5 reveals that the 3 (three) attachments, referred in the grounds of detention were sent to the Jailor, Special Jail, Nagaon, for being served to the petitioner, namely, Nur Ali, son of Late Suruj Ali. The said memo was prepared on 13.05.2026 and received by the Jailor, Special Jail, Nagaon, on 13.05.2026. The copy of detention order, grounds of detention and relied upon documents were duly served to the petitioner on the same day in the presence of Rumija Khatun, wife of Nur Ali, and two independent witnesses, whose names are reflected in the document. Their names are not disclosed in this order so that their identity is protected.

c. Therefore, the ground taken that documents annexed to the grounds of detention, being (a) FIR, (ii) seizure list, (iii) FSL report, and (iv) charge-sheet, in connection with three police station cases were not served to the petitioner is found to be not correct.

16) *Delay in passing the detention order after the proposal was send on 10.01.2025:*

a. The proposal for preventive detention of the petitioner was initiated

by the Superintendent of Police, Hojai, vide letter under Memo No. IV/HJI/Crime/2024/3374 dated 30.12.2024, addressed to the Inspector General of Police (CR), Nagaon. As per the rationale for issuing the detention order, it was reported that the petitioner was in judicial custody and that there is lurking possibility of his being released on bail as it has happened in two previous cases and if it happens, it will embolden him but will further act as a morale booster for other drug suppliers/ peddlers and morale buster for police.

b. Based on the said Memo dated 30.12.2024, the proposal for preventive detention was put-up made by the Inspector General of Police (CR), Nagaon, vide letter no. CR/41-HJI/2025/95 dated 10.01.2025.

c. As sought for, the Addl. Superintendent of Police (Crime), Hojai, provided additional information vide letter dated 15.05.2025 to the Deputy Secretary to the Govt. of Assam for the proposal for issuing detention order in respect of the petitioner. In the said letter it has been mentioned that the petitioner was in judicial custody since 13.11.2024, in connection with Spl. NDPS Case No. 02/2024 of Hojai P.S. Case No. 354/2023 under section 21(c)/29 of NDPS Act. However, against query as to whether the proposed detenue had applied for bail, if so it has been allowed or rejected, the response is "NA". Against query if any bail objection is pending, the response is "NA". Against the query if any similarly circumstanced co-accused has got bail, the response is again "NA". As against the query whether there is a real possibility of the proposed detenue being released on bail, the response is "NA". The abbreviation 'NA" has not been elaborated or

explained as to what it is intended to mean.

d. Thereafter, the detention order was passed on 17.10.2025.

e. Though in the affidavit-in- opposition filed by the respondent nos. 3, 4 and 5, it has been stated that the detaining authority had asked for further information and clarifications, but neither the impugned detention order refers to any such exchange of information and/or clarifications.

f. Thus, the said stand taken by the respondent nos. 3, 4 and 5, as urged by the learned Addl. Advocate General cannot be accepted for two reasons. Firstly, the said stand, as taken in the affidavit-in-opposition is not reflected in the impugned detention order. Secondly, if there is any such additional information and clarification, the same detention order does not reflect that the same was taken into consideration while passing the detention order dated 17.10.2025.

g. Thus, as the proposal for preventive detention of the petitioner was initiated by the Superintendent of Police, Hojai vide letter dated 30.12.2024, there has been an unexplained delay in passing the detention order dated 17.10.2025. The delay in passing the detention order from the date of proposal has the effect of snapping the live and proximate link between the prejudicial activities and the purpose of detention. Moreover, there is no attempt whatsoever, by the Detaining Authority to explain the delay of about 290 (two hundred ninety days in passing the detention order.

h. In the said context, the Supreme Court of India, in the case of *Sushanta Kumar Banik (supra)*, had analysed the point of delay in

passing the detention order by discussing several case laws on the point. In the said case, the proposal for detention was made by the Superintendent of Police (C/S), West Tripura on 28.06.2021. Based on the said proposal, the Director General of Police, Tripura had forwarded the proposal to the Secretary to the Government of Tripura, Home Department. Thereafter, the said Detaining Authority had passed the detention order on 12.11.2021, i.e. after about $4^1/_2$ months. In the said factual situation, it was held that the delay in passing the detention order had snapped the "live and proximate link" between the prejudicial activities and the purpose of detention and failure on the part of the detaining authority in explaining such delay in any manner.

i. In the present case, the Superintendent of Police, Hojai, had sent the proposal on 30.12.2024. Based on the same, the Inspector General of Police (CR), Nagaon, forwarded the proposal vide letter dated 10.01.2025. The clarifications sought for was submitted by the Additional Superintendent of Police (Crime) vide letter dated 15.05.2025. Therefore, from the date of proposal, the delay in passing the detention order is 290 days, i.e. about $10^1/_2$ (ten and half) months. From 10.01.2025, the date when the proposal was forwarded by the Inspector General of Police (CR), the delay is about 6 (six) months. From 15.05.2025, the date when clarification was sent, the delay is 2 (two) months. Thus, there is delay at every stage. The delay has not been explained in the detention order.

j. Moreover, from the grounds of detention dated 17.10.2025 that was furnished to the petitioner, the same does not reflect that the copy of

the letter by the Additional Superintendent of Police (Crime), Hojai vide Memo No. IV/RSI/HJI/2025/165 dated 15.05.2025, was either furnished to the petitioner or that its contents was referred to by the Detaining Authority in the Detention Order dated 17.10.2025.

k. Thus, in this case the delay in passing the detention order had snapped the "live and proximate link" between the prejudicial activities of the petitioner and the purpose of detention and failure on the part of the detaining authority in explaining such delay in any manner.

17) *Delay in serving the detention order dated 17.10.2025:*

a. In the writ petition, the petitioner has stated that he was arrested on 12.05.2026 the detention order dated 17.10.2025, was served on him and that he was under detention on and from 13.05.2026.

b. However, in the detention order dated 17.10.2025, it is specifically mentioned in paragraph 3 thereto to the effect that in connection with Hojai P.S. Case No. 20/2023, the petitioner was arrested and sent to judicial custody. In paragraph 4 thereof, it has been mentioned to the effect that in connection with Hojai P.S. Case No. 354/2023, the petitioner was arrested and sent to judicial custody. Moreover, in paragraph 5 thereof it has been mentioned to the effect that in connection with Lanka P.S. Case No. 351/2024, the petitioner was arrested and sent to judicial custody.

c. Thus, there is nothing on record to show that the petitioner was an absconder. However, it is only from the contents of the charge-sheet no. 418/2023 dated 31.12.2023, corresponding to Hojai P.S. Case No. 354/2023 under section 21(c)/29 of the NDPS Act, 1985, it appears

that as on the date of submission of the charge-sheet, the accused no.5 was an absconder. But if he was an absconder, then, there was no reason for a statement being made in the detention order that the petitioner was arrested and sent to judicial custody.

d. In the considered opinion of the Court, notwithstanding whether the petitioner was an absconder or not, but the State respondents have admitted that on 17.10.2025, the date the detention order was passed, the petitioner was in judicial custody.

e. From the record of proceedings dated 17.06.2026 of the Advisory Board under PITNDPS Act, it is recorded that the Addl. Superintendent of Police, (HQ), had explained the delay in execution of Detention order dated 17.10.2025, on 13.05.2026. However, except for a vague observation, the reasons and/or explanation of delay is not mentioned in the record of the proceedings dated 17.06.2026 of the Advisory Board.

f. No cogent explanation has been given why the detention order could not be served immediately after it was passed on 17.10.2025. Thus, by waiting to serve the same till 13.05.2026, the respondent nos. 3, 4 and 5 have made an attempt to make the detention effective from 13.05.2026, the date when it was served on the petitioner.

g. Thus, the Court is inclined to hold that if as per the detention order dated 17.10.2025, the petitioner was arrested and in judicial custody in all three police cases, the delay in service of detention order dated 17.10.2025, to the petitioner is fatal, as it amounts to deliberate attempt by the State to prejudicially affect the fundamental right of the

petitioner as enshrined under Article 21 of the Constitution of India.

h. Thus, the detention order dated 17.10.2025, is found to be vitiated by lack of explanation as to why the detention order was served to the petitioner on 13.05.2026, when as per the detention order, the petitioner was arrested and sent to judicial custody in all the three cases against him.

18) *On the point that the detention order and the grounds of detention were not explained to the petitioner in Assamese:*

a. The respondent nos. 3, 4 and 5 have annexed a copy of the GD Entry No. 014 dated 13.05.2026, recorded at 3:14:15 pm., amongst others, that during the execution of the detention order, copies of the following documents are duly served upon the detenue, being- (1) detention order, (2) grounds of detention, and (3) relied upon documents. It has further been recorded that the contents of the documents were read over and explained to the detenue in Assamese language, which he understands properly and it was also recorded that necessary acknowledgement endorsement was obtained.

b. Thus, the plea of the petitioner that the detention order, grounds of detention and relied upon documents were not explained in Assamese language, is not acceptable, being incorrect and contrary to the records.

19) *Delay in forwarding the representation and delay on part of the Advisory Board to render its opinion:*

a. The petitioner had submitted his representation on 08.06.2026, which was addressed to four authorities, viz., (1) Addl. Chief Secretary,

Political (A) Department; (2) Detaining Authority; (3) Advisory Board; and (4) Deputy Secretary, PITNDPS Division, Ministry of Finance, Department of Revenue, Govt. of India.

b. The Assistant Jailor, Special Jail, Nagaon, had forwarded the said representations on 08.06.2026.

c. Thus, there was no delay in forwarding the representations to the concerned authorities.

d. The said representation was rejected by the detaining authority on 10.07.2026. In the meanwhile, the Advisory Board under PITNDPS Act, 1988, had submitted its report dated 05.07.2026 in respect of the reference made under section 9(b) of the PITNDPS Act, 1985, wherein it was held that there is sufficient cause for continuing with the detention of the detenue, i.e. the petitioner pursuant to the detention order dated 17.10.2025.

e. The Detaining Authority, vide order no. eCF-632573/147 dated 14.07.2026, had thereafter, confirmed the detention order no. eCF-632573/80 dated 17.10.2025 for a period of 1 (one) year from the date of detention.

20) The respondent nos. 1 and 2, vide their affidavit-in- opposition, had stated that though the representation was submitted by the petitioner on 08.06.2026, the same was received by the Central Government on 22.06.2026 and the PITNDPS Division had received the same on 29.06.2026. The comments was called for from the State Government, which was received through e-mail dated 02.07.2026. Moreover, the State Government had informed that the said case was referred to the Advisory Board 15.05.2026 and thus, awaiting the

report from the Advisory Board, the matter was kept in abeyance awaiting receipt of report/ opinion from the Advisory Board, Assam, which was received. Thereafter, on 22.07.2026, after reviewing all facts and records the representation was disposed of by the Secretary, Department of Revenue on behalf of the Central Government.

a. The respondent nos. 1 and 2, vide their affidavit-in- opposition, had stated that though the representation was submitted by the petitioner on 08.06.2026, the same was received by the Central Government on 22.06.2026 and the PITNDPS Division had received the same on 29.06.2026. The comments was called for from the State Government, which was received through e-mail dated 02.07.2026. Moreover, the State Government had informed that the said case was referred to the Advisory Board 15.05.2026 and thus, awaiting the report from the Advisory Board, the matter was kept in abeyance awaiting receipt of report/ opinion from the Advisory Board, Assam, which was received. Thereafter, on 22.07.2026, after reviewing all facts and records the representation was disposed of by the Secretary, Department of Revenue on behalf of the Central Government. On 23.07.2026, the rejection memorandum was sent to the jail authorities.

b. Thus, there appears to be no delay in disposing of the representation dated 08.06.2026. It may be mentioned that the State Advisory Board, Assam was in seisin of the matter. In that regard, the Supreme Court of India, in the case of *Ankit Ashok Jalan (supra)*, had settled the law that the Central Government can await the report/ opinion of the Advisory Board.

c. However, it may be mentioned that when the Supreme Court of

India, in the case of *Jaseela Shaji (supra)*, had observed that the jail staff must act in promptitude to transmit the representation and for the said purpose they may rely on electronic communications, etc., there is no explanation as to why the representations could not be transmitted by way of e-mail.

d. Thus, in so far as delay that has occurred in receipt of the representation by the Central Government, in light of the decision of the Supreme Court of India in the case of *Ankit Ashok Jalan (supra)*, which lays down that when the detaining authority is the State Government, it would be proper for the Central Government to wait till receipt of report/ opinion from the Advisory Board. Thus, in respect of delay by the Central Government to take an appropriate decision, the impugned detention order is not liable to be interfered with under the facts of this case.

21) *Non consideration of likelihood of the petitioner being released on bail:*

a. In this case, the Detaining Authority had not taken into consideration the likelihood of the petitioner being released on bail as the provision of 37 of the NDPS Act, 1985 would apply under the facts and circumstances of this case.

b. As mentioned hereinbefore, in the Grounds of Detention, the petitioner was arrested and sent to judicial custody. The response to the query of the Detaining Authority, the concerned Police Authorities had not reported that the petitioner was released on bail in any of the three cases. There is no material on record to show that the State had

raised any objection before the jurisdictional Court against prayer, if any , made by the petitioner for grant of bail.

c. The Sub-Inspector of Police, Hojai, in his proposal dated 30.12.2024, addressed to the Inspector General of Police (CR & HR), Diphu, Karbi Anglong (through the Superintendent of Police, Hojai), vide letter dated 30.12.2024, did not refer to the likelihood of the petitioner to be released on bail.

d. The Superintendent of Police, Hojai, while forwarding the proposal to the Inspector General of Police (CR), Nagaon, Camp- Diphu, did not refer to likelihood of the petitioner being released on bail.

e. In the rationale for issuing detention order, which is annexed as Annexure-A to the affidavit-in-opposition filed by the respondent nos. 3, 4 and 5, at bullet point at paragraph 5 thereof, it has been mentioned that "… *There was lurking possibility of being released on bail as has happened in previous two NDPS Cases registered against him*." However, the bail orders are not found to be accompanying the proposal for detention. The fact that the petitioner was released on bail in two cases is also not reflected in the letter dated 15.05.2025 by the Addl. Superintendent of Police (Crime), Hojai. Rather, as mentioned herein before, the Grounds of Detention discloses that the petitioner was arrested in all three cases against him and he was sent to judicial custody.

f. Therefore, the Detaining Authority was oblivious of the fact as to whether or not there was any imminent possibility of the petitioner being released on bail.

g. The detaining authority had failed to consider the rigours of section 37 of the NDPS Act, 1985, which disentitles the petitioner to be released on bail as a matter of course.

h. Therefore, the impugned detention order is not found sustainable on facts and in law on this count.

22) Therefore, in light of the discussions above, the detention order is found to be vitiated on two counts:-

a. Firstly, that the delay in issuing the detention order dated 17.10.2025, with reference to the proposal dated 30.12.2024, remains unexplained in the detention order and therefore, held to be fatal under the facts of this case.

b. Secondly, the Detaining Authority had not applied its mind on the fact that the Sponsoring Authority had not stated that any bail application by the petitioner in respect of the three cases were pending for consideration by Court as on the date of sending the proposal. The detaining authority had failed to consider the rigours of section 37 of the NDPS Act, 1985, which disentitles the petitioner to be released on bai as a matter of course.

23) Except for the decision in the case of *Ankit Ashok Jalan (supra)*, the cases cited by the learned Addl. Advocate General for the State are not found to help the State in any manner.

24) In light of the discussions above, the writ petition deserves to be and is accordingly, allowed. Consequently, (i) the Detention Order bearing No. eCF-632573/80 dated 17.10.2025, issued by the Secretary to the Government of Assam, Home and Political Department/ Political (A) Department; and (ii) the

Grounds of Detention bearing no. eCF-632573/77 dated 17.10.2025, issued by the Secretary to the Government of Assam, Home and Political Department/ Political (A) Department, are both set aside and quashed. The petitioner is ordered to be released forthwith from preventive detention.

25) The petitioner would have a right to apply for bail in connection with the three NDPS cases referred hereinbefore, which shall be considered in its own merit without being influenced by this judgment and order.

JUDGE **JUDGE**

Munna Kumar Digitally signed by Munna Kumar Date: 2026.11.05 11:45:30 +05'30'

Comparing Assistant **Private Secretary**