

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2343 of 2025

Arising Out of PS. Case No.- Year-0 Thana- District- Nalanda

Sonu Kumar S/o Sanjay Yadav R/o Village- Mahrogoraiya, Police Station- Islampur, District- Nalanda

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home (Police), Government of Bihar, Patna.
3. The Deputy Secretary, Department of Home (Police) Government of Bihar, Patna.
4. The District Magistrate, Nalanda, Bihar.
5. The Superintendent of Police, Nalanda, Bihar.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Rajesh Kumar Singh, Senior Advocate Mr. Ambrish Kumar, Advocate Mr. Mukul Kumar, Advocate
For the State	:	Mr. Ajay Kumar, G.A.5 Mr. Saurav Kumar, Advocate Mr. Pratik Kumar Sinha, Advocate Dr. Nivedita Chaudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 24-11-2025

Heard learned Senior Counsel for the petitioner and
learned GA-5 for the State.

2. This writ application has been preferred challenging
the order as contained in Memo No. 2509/Legal, Biharsharif dated
17.06.2025 issued by the District Magistrate, Nalanda and the
subsequent order of the State Government contained in Memo No.



8140 dated 27.06.2025 as also the Memo No. 3453 dated 22.07.2025 issued by the Under Secretary, Department of Home (Police), Government of Bihar by which the preventive detention order passed by the District Magistrate, Nalanda has been confirmed.

3. Learned Senior Counsel for the petitioner submits that the detention order has been passed not because there was any issue of 'public order', but only because the District Magistrate was of the view that the petitioner has a long criminal history, he has got bail from the Court in all previous cases and was likely to get bail in Islampur P.S. Case No. 221 of 2025 dated 29.04.2025 under Sections 190/191(2)/191(3)/109/111/121(1)/221/351(3)/352 of the Bhartiya Nyay Sanhita and Section 27 of the Arms Act. Learned Senior Counsel submits that the reason for passing of the order of detention would give an impression that to circumvent the release of the petitioner even after obtaining bail in all the cases, the order of detention was passed in haste.

4. On the last date of hearing, it was informed to this Court which has been taken note of in our order dated 19.11.2025 that in Islampur P.S. Case No. 221 of 2025, the petitioner had already been granted bail by the Court on 13.06.2025 which was well within the knowledge of the District Magistrate and the



Superintendent of Police, Nalanda but in the detention order, the facts have been twisted and an attempt has been made to show that the District Magistrate and the Superintendent of Police, Nalanda were not aware of the bail order in the said case.

5. Learned Senior Counsel submits that in this case, the detention order has been passed on 17.06.2025, the grounds stated in the detention order were served upon the petitioner on 19.06.2025, however, the petitioner could submit a representation to the Under Secretary of the Government, Department of Home (Police Branch) on 02.07.2025. In the meantime, the detention order was approved by the Government in terms of sub-section (3) of Section 12 of the Bihar Control of Crimes Act, 2024 (hereinafter referred to as the 'Act of 2024').

6. It is submitted that while approving the detention order vide Memo No. 8140/Patna dated 27.06.2025, the petitioner was given an opportunity to make a representation to the same authority. Taking note of this opportunity, the petitioner submitted his representation on 02.07.2025, but later on, based on the opinion of the Advisory Board, the Government had confirmed the detention order vide Memo No. 3453/Patna dated 22.07.2025.



7. Learned Senior Counsel submits that before passing the order as contained in Annexure 'P5', the representation of the petitioner was not considered.

8. On the other hand, learned GA-5 for the State submits that the detention order has been passed keeping in view not only the criminal history of the petitioner but also the nature of cases in which the petitioner is an accused and has been chargesheeted. It is submitted that no doubt, there will be a distinction between the cases which are though falling in the category of 'law and order problem', still it may not be a case falling in the category of an offence of 'public order'. Learned GA-5 submits that a bare perusal of the allegations against the petitioner in Islampur P.S. Case No. 221 of 2025 would show that in the said case, the petitioner was found involved in an attack upon the police with his associates and succeeded in forcible release of his associates Santosh Kumar @ Lal Badshah and Honey Kumar from police custody by resorting indiscriminate firing and causing some police personnel injured.

9. Learned GA-5 submits that even as according to him, it was not required for the District Magistrate to write in the impugned order that because the petitioner is likely to come out of jail on bail, therefore, the detention order would be required but



that is only one of the reasons provided in the impugned order and will not adversely impact the order of detention passed by the District Magistrate.

10. Learned GA-5 has further submitted that the approval of order of detention has been done by the Government within the prescribed period of twelve days from the date of passing of the detention order. The petitioner was duly communicated all the grounds of detention within five days of the passing of the order, thereafter the matter was referred to the Advisory Board within three weeks from the date of passing of the detention order. The Advisory Board submitted its report on 14th July, 2025 in which in the opinion of the Advisory Board, there were sufficient grounds to pass the detention order. In view of the opinion of the Advisory Board, the impugned order as contained in Memo No. 3453/Patna dated 22.07.2025 (Annexure 'P/5') has been passed.

11. It is the stand of learned GA-5 for the State that the petitioner had not submitted his representation before the Government within the prescribed period before passing of the order of approval, moreover, in the scheme of the Act of 2024, the consideration of the representation of the petitioner at the stage of grant of approval by the State Government is not envisaged. Such



representation is to be considered by the Advisory Board when the matter is referred to the Board for its opinion. The confirmation of the detention order will depend upon the opinion of the Advisory Board.

12. We have heard learned Senior Counsel for the petitioner and learned GA-5 for the State. In the facts of the present case, we have noticed that the allegation against the petitioner is that of causing assault on the police personnel in order to get his associates set at free. It is stated that in order to get his associates free from police custody, the petitioner and his associates got involved in resorting to indiscriminate firing causing some police personnel injured.

13. In our considered opinion, the kind of alleged offence against the petitioner would definitely fall in the category of a case involving 'disturbance of public order'. We are aware that there is a distinction between a case of 'public order' and a case involving 'law and order'. There may be a case which would fall in the category of disturbing 'law and order' or causing disorders in the society, still that may not fall in the category of case causing 'disturbance in the public order'. Recently, in the case of **Arjun S/o Ratan Gaikwad vs. State of Maharashtra and Ors.** reported in **2024 INSC 968**, the Hon'ble Supreme Court



had occasion to consider as to whether the said case would be falling in the category of disturbing the public order. The Hon'ble Supreme Court had referred the case laws right from the Constitution Bench judgment in the case of **Ram Manohar Lohia v. State of Bihar** reported in **AIR 1966 SC 740** and **Arun Kumar Ghosh v. State of W.B.** reported in **(1972) 3 SCC 823**. We reproduce paragraph '15' of the said judgment hereunder for a ready reference:-

“15. As to whether a case would amount to threat to the public order or as to whether it would be such which can be dealt with by the ordinary machinery in exercise of its powers of maintaining law and order would depend upon the facts and circumstances of each case. For example, if somebody commits a brutal murder within the four corners of a house, it will not be amounting to a threat to the public order. As against this, if a person in a public space where a number of people are present creates a ruckus by his behaviour and continues with such activities, in a manner to create a terror in the minds of the public at large, it would amount to a threat to public order. Though, in a given case there may not be even a physical attack.”

14. As regards the submission of learned Senior Counsel that the representation of the petitioner was not considered at the level of the Government before approval of the order of detention, in the facts of the present case where it is evident that the petitioner had not submitted his representation before passing of the order of approval as contained in Memo No. 8140 dated



27.06.2025, this question would not fall for consideration in the present case.

15. We have noticed that the order of confirmation as contained in Memo No. 3453 (Annexure ‘P/5’) does not suffer from any infirmity because it is based on the opinion of the Advisory Board and the order has been passed under Section 23(1) read with Section 24 of the Act of 2024.

16. At this stage, we are of the opinion that there was no need for the District Magistrate to take a view that because the petitioner would come out on bail, therefore, he is required to be detained, such observations were totally irrelevant, however, that will not take away the validity of the detention order.

17. In result, the writ application would fail. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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CAV DATE	
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