

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

WRIT PETITION No. 12933 of 2025

***SHIVANG BHARGAV S/O SHRI MANISH BHARGAV AGE 20 R/O
GRAM DADUMAR BHITARWAR, DISTT. GWALIOR AT PRESENT***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri Rohit Tiwari and Shri Rajesh Kushwah – Advocates for the petitioner.
Shri Sohni Mishra – Government Advocate for the respondents/State.*

ORDER

(Passed on this 4th day of September 2025)

Per: Justice Anand Pathak

The petitioner has filed present writ petition under Article 226 of the Constitution of India challenging the order dt.28.11.2024 passed by the District Magistrate Gwalior under section 3 (2) of the National Security Act, 1980 (for brevity “NSA”), by which the petitioner has been ordered to be detained for a period of three months in Central Jail Rewa. Petitioner has also challenged the order dt.27.02.2025 passed by the District Magistrate, Gwalior, whereby the period of detention has been extended for a period of three months.

2. It is the case of the petitioner that he is resident of village Dadumar, Tahsil Bhitwar, District Gwalior and at present, resident of Koteswar Colony, Bahodapur, Gwalior. The petitioner has falsely been implicated in various cases, and in all nine cases have been registered against the petitioner in district Gwalior, out of which he has not been found guilty in five cases whereas other four cases are pending. On the basis of aforesaid cases, on the recommendation of respondent No.3, respondent No.2 passed the impugned order dt.28.11.2024 thereby directing detention of the petitioner for a period of three months in Central Jail Rewa. When the petitioner was in Central Jail Rewa, further order dt.27.02.2025 has been passed thereby the period of detention has been extended for a period of three months i.e. from 28.02.2025 to 28.05.2025. Petitioner has submitted a representation through his Advocate on 10.02.2025 for cancellation of aforesaid orders, but to no avail.

3. It is the submission of learned counsel for the petitioner that till date petitioner has not been convicted by any Court of law in any of the cases registered against him, even then he has been directed to be detained against the settled principle of law. The impugned orders have been passed by the respondents ignoring the decisions of the Hon'ble Supreme Court as well as this Court. The petitioner is a student and due to such detention order his education is adversely getting affected, which is detrimental to his future life.

4. It is further submitted by the learned counsel for the petitioner that

the detention order has been passed on 28.11.2024, whereas the matter was reported only on 02.12.2024. Thus, there is delay of four days, which has not been explained. To bolster his submission, he placed reliance on the judgment of the Apex Court in the case of **Hetchin Haokip v. State of Manipur (2018) 9 SCC 562**.

5. Learned counsel further submitted that the impugned order is in violation of Section 2 (5) of the NSA, as it makes it mandatory for the State Government to forward the report to the Central Government within seven days, whereas in the present case, the report was forwarded to the Central Government on 06.12.2024 i.e. after nine days. For this contention, he placed reliance on the judgment of Apex Court in the case of **Mohammad Ramzan vs. Union of India, 1990 Supp SCC 726**.

6. It is further submitted by the learned counsel for the petitioner that as per Article 22 (5) of the Constitution of India, the grounds of detention must be communicated to the detenu and he must be afforded early opportunity to make a representation.

7. *Per contra*, learned counsel for the respondents/State has denied all the averments of the petitioner. It is submitted that the petitioner is a habitual offender and is engaged in criminal activities. Total 9 cases have been registered against him for the years 2023 and 2024. Before passing the impugned orders, relevant procedure prescribed under the Act has been

followed in its letter and spirit. The detention order is just and proper and there is no illegality in the same. Looking to the possibility of disturbing law and order situation in the area, the District Magistrate has rightly passed the order extending the period of detention for three months. Thus, no interference is called for in the impugned orders. On such grounds, he prayed for dismissal of the petition.

8. Heard the learned counsel for the parties and perused the record.

9. From the rival submissions and record, it appears that case of the petitioner was proceeded with following list of dates and events, which are as under :-

S.No.	Date	Events
1	16.11.2024	Petitioner fired in public and uploaded the video of firing on social media
2	18.11.2024	Petitioner was detained under Section 25/27 of Arms Act.
3	19.11.2024	T.I., Police Station Bahodapur sent report to S.P. Gwalior with CD, news paper cuttings and social media comments.
4	20.11.2024	S.P. Gwalior forwarded report District Magistrate Gwalior
5	28.11.2024	District Magistrate Gwalior passed the detention order under Section 3 (3) of NSA
6	29.11.2024	Notice was served on petitioner and he was shifted from Gwalior to Rewa jail.
7	02.12.2024	District Magistrate Rewa reported detention order to the State Government under Section 3 (4) of NSA
8.	06.12.2024	State Government forwarded report to the Central Government under Section 3 (5) of NSA.
9.	16.12.2024	Appropriate Government placed detention order and grounds on which the order has been made to the Advisory Board.
10.	10.01.2025	Advisory Board gave its opinion and found sufficient cause for detention of petitioner.
11	13.01.2025	Appropriate Government passed order under Section 12 of the NSA.

10. From the perusal of above time line, it appears that all proceedings were undertaken by the respondents within time frame. He was detained on 28.11.2024 under NSA. Thereafter report was sent under Section 3 (4) of NSA within four days i.e. 02.12.2024. Word 'forthwith' figures in Section 3 (4) of the NSA and it means that it has to be sent without delay. 28th November was Thursday. 30th November was Saturday and 1st December was Sunday. Therefore, looking to the two holidays in between, report sent on 02.12.2024 and it would be construed that without any delay, matter was sent to the State Government **forthwith**. Although Section 3 (5) of the NSA provides seven days' time line, but it appears that within next four days i.e. on 06.12.2024, State Government approved it and sent to the Central Government as per Section 3 (5) of the NSA.

11. On 16.12.2024 vide Annexure R/14, matter was placed before Advisory Board. Therefore, from the document (Annexure R/14) it appears that it was placed within 18 days from the date of detention whereas three weeks' time (around 21 days) is provided under Section 10 of NSA. Therefore, placement of case was within limitation under Section 10 of the NSA.

12. Advisory Board had to take decision within seven weeks (around 49 days) from the date of detention of the person concerned. Advisory Board passed the order on 10.01.2025. Meaning thereby that information was given

on 43th day, therefore it was also within limitation.

13. The word "forthwith" has been explained by the Apex Court in the case of **Hetchin Haokip v. State of Manipur (2018) 9 SCC 562**, relevant para of which is as under :-

"16. The expression **“forthwith”** under Section 3 (4), must be interpreted to mean within reasonable time and without any undue delay. This would not mean that the detaining authority has a period of twelve days to submit the report (with grounds) to the State Government from the date of detention. The detaining authority must furnish the report at the earliest possible. Any delay between the date of detention and the date of submitting the report to the State Government, must be due to unavoidable circumstances beyond the control of the authority and not because of administrative laxity."

14. So far as grounds of detention are concerned, total nine cases were registered against the petitioner in which two cases were under Section 307 of IPC and seven cases were under Arms Act in different police stations. His video indicates that he opened fire in residential area challenging the police and uploaded video creating terror and fear amongst residents living in the vicinity. He was a threat to public order. Therefore, he was rightly detained for NSA. Some times offences are grievous and some times, the manner in which person behaves (with criminal antecedents) also creates fear amongst people. Therefore, for maintaining public order, peace and tranquility in the region, this is a restraining step required in attending set of facts. If this Court goes into the nature of allegations, then it may go in the realm of subjectivity

because authorities always assess the situation and thereafter decide to act accordingly.

15. Apex Court in the case of **Rameshwar Shaw v. District Magistrate (AIR 1964 SC 334)** has held that past conduct or antecedent/history of the person on which the authority purports to act, should ordinarily be proximate in point of time and should have a rational connection with the conclusion that the detention of the person is necessary. Here, past conduct of the petitioner was already haunting him. The uploading of video where he opened the fire from his country made pistol in vicinity of public and sending a message of threat prompted the authority to act proactively.

16. In cumulative analysis, after going through the reply and documents filed by the respondents, it appears that petitioner was rightly detained for his conduct. The judgments relied upon by the petitioner are of no help to the petitioner because higher authorities passed the orders within the time limit and without any delay. Therefore, no interference can be caused. Petition sans merit is hereby **dismissed**.

(ANAND PATHAK)
JUDGE

(PUSHPENDRA YADAV)
JUDGE

SP