

Preventive Detention

Why in News?

The Supreme Court has allowed a plea against preventive detention of a man allegedly engaged in organized smuggling, as the detaining authorities failed to consider conditions imposed on him.

- **Recent SC Ruling** - Preventive detention prescribed safeguards must be strictly observed to ensure due compliance with constitutional and statutory norms and requirements.
- **Preventive detention** - It is the act of detaining someone ***without a court trial or conviction***.
- It is used to ***prevent someone from committing*** a crime or disrupting public order.
- **Purpose** - To prevent someone from committing a crime,
 - To prevent someone from disrupting public order,
 - To prevent someone from escaping prosecution, and
 - To maintain national security.
- **Constitutional provisions** - Article 22(3) of the Constitution allows preventive detention for reasons of state security and public order.
- The Constitution provides safeguards for people in preventive detention.
- Both Parliament and State Legislature have powers to enact a law for preventive detention while Parliament has exclusive power over reasons connected with defence, foreign affairs, or security of India.
- **Related Laws**
 - Foreign Exchange Conservation and Prevention of Smuggling Activities, 1974 (COFEPOSA)
 - Unlawful Activities (Prevention) Act, 2008 (UAPA)
- **Previous rulings of Supreme Court** -The Supreme Court has ruled that advisory boards should prevent the state from using power capriciously
- The Supreme Court has ruled that the grounds for preventive detention should be communicated to the detainee as soon as possible
- **Landmark case** - The A K Gopalan v/s State of Madras case related to the Preventive Detention Act of 1950.

Reference

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