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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 09.12.2025

Date of decision: 12.01.2026

+ W.P.(CRL) 3529/2025 & CRL.M.A. 32015/2025
MR GAUTAM MONDAL THROUGH HIS WIFE MRS ASHIMA
MUKHERJEE MONDALPetitioner

Through: Mr. Kaustub Narendran with Mr.
Rohan Naik, Mr. Aayush Mitruka, Ms.
Lisa Mishra, Mr. Vipulaaksh
Moondra, Mr. Arudhra Rao and Mr.
Marmik Shah, Advocates.

versus

UNION OF INDIA THROUGH ITS STANDING COUNSEL & ORS.

.....Respondents

Through: Mr. Abhishek Gupta, CGSC for UOI
with Mr. Kumar Kartikya, Advocates
for respondent Nos.1 and 2.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T

1. The present petition is filed, under Article 226 and 227 of the Constitution of India, for a writ of *Certiorari* to quash the Detention Order dated 20.03.2025 passed by the respondent No. 2, Joint Secretary, Department of Revenue, Ministry of finance, Government of India, as well as the Memorandum dated 24.09.2025 and subsequent Memorandum dated 15.10.2025, passed by respondent No. 2, whereby the representations of the petitioner were rejected and for writ in the nature of *Habeas Corpus*, directing the respondent authorities to produce him from their custody at Central Jail, Jaipur, Rajasthan and set him at liberty.



2. Briefly stated, the petitioner, a resident of West Bengal, was arrested in the year 2024 in connection with three separate criminal cases, one being registered at Narcotics Control Bureau, Kolkata Zonal Unit, second at Police Station Gaighata, Parganas, West Bengal, and third at Police Station Bhadreswar, West Bengal, under Narcotic Drugs and Psychotropic Substances Act, 1988. During the pendency of said criminal cases, in order to prevent the petitioner from indulging into further criminal activities and illicit trafficking of contrabands, proceedings were initiated by respondent No. 3, Narcotics Control Bureau, Kolkata, under the Prevention of Illicit Traffic in Narcotics Drugs and Psychotropic Substances Act, 1988 (“PITNDPS”). The same culminated in the issuance of impugned Detention Order dated 20.03.2025 by respondent No. 2. Admittedly, the petitioner and his family is resident of Parganas, West Bengal and the authority, respondent No. 3, who took the cognizance and has records of the criminal cases, being the root cause of the matter, is also situated at West Bengal.

3. Pursuant thereto, the petitioner was taken into preventive custody and detained at Central Jail, Jaipur, Rajasthan, wherein he was served with the grounds of detention and other relevant documents. Subsequent thereto, his case was referred to State Advisory Board (PITNDPS), Rajasthan, which by its report dated 01.09.2025, found sufficient cause for detention, whereupon the Central Government confirmed the detention for a period of one year from 25.06.2025.

4. His representations, in furtherance thereof, were rejected by impugned Memorandum dated 24.09.2025 and Memorandum dated 15.10.2025, leading to the filing of the present writ petition.



5. At the outset, a preliminary objection, as to the maintainability of the present petition, was raised by the respondent Nos. 1 and 2. Learned Counsel submitted that the impugned Detention Order was passed in furtherance of all the offences committed by the petitioner in the territorial jurisdiction of West Bengal. Moreover, the order was executed in Kolkata, West Bengal and the petitioner was detained at Jaipur, Rajasthan, where the grounds of detention were served upon him.

6. He submitted that merely because the Central Government is situated at Delhi, and for the said reason the impugned Order and the Memoranda were passed in Delhi, this Court is not the appropriate forum to exercise its jurisdiction under Article 226 of the Constitution of India. Furthermore, applying the doctrine of *Forum Conveniens*, the petition ought to have been filed at High Court of Calcutta, within whose jurisdiction all the cases against the petitioner are pending or at High Court of Rajasthan, where the petitioner is detained. To buttress his arguments, the learned counsel has placed reliance on *Kusum Ingots & Alloys Ltd. vs. Union of India and Another*, 2004 6 SCC 254.

7. Learned counsel for the petitioner, vehemently opposing the said objection, submitted that since one of the causes of action has also occurred at Delhi as the impugned Order and Memoranda were passed at Delhi, the present petition is maintainable before this Court. Reliance has been placed on:

- i. *Smt. Ramadevi vs. K.A. Gafoor & Ors.*, 1975 SCC OnLine Del 162.
- ii. *Harish Taneja vs. Union of India & Ors.*, 1983 SCC OnLine Del 237.



- iii. ***Ramchand Santumal Bhatia vs. Tarun Roy & Ors.***, 1987 SCC OnLine Bom 218.
- iv. ***Jamal Haji Jakaria vs. Union of India & Ors.***, (1988) ILR 2 Delhi 243.
- v. ***Malini Mukesh Vora vs. Union of India & Ors.***, 2009 SCC OnLine Del 1799.
- vi. ***Naushad Ali through Perokar Sahajad Ali vs. Union of India & Ors.***, 2024 SCC OnLine Del 1141.

8. We have heard the learned counsel for the parties to the extent of maintainability of the present petition and perused the record.

9. So far as the judgments relied upon by learned counsel for the petitioner are concerned, they uniformly hold that any Court within whose territorial jurisdiction even a part of the cause of action has arisen is competent to entertain a writ petition. There can be no quarrel with the said proposition. It is also undisputed that since the impugned order was passed within the territorial jurisdiction of this Court, this Court does possess the jurisdiction to entertain the present petition. However, the objection raised is not to the existence of jurisdiction, but to the exercise thereof, contending that whether applying the doctrine of *forum conveniens*, this Court ought to exercise its discretionary jurisdiction in hearing the present petition or refuse it.

10. A single judge bench of this Court, in case of ***Bharat Nidhi Limited vs. Securities and Exchange Board of India & Ors.***, 2023 SCC OnLine Del 8586, has comprehensively examined the scope of Article 226 as under:

“64. A perusal of Clause 2 of Article 226 indicates that the writ jurisdiction can be exercised by the High Court



primarily in relation to the territories within which the cause of action, wholly or in part arises. However, the location of such Government or authority or residence of such person, outside the territories of the High Court will not deter the High Court from issuing the appropriate writ.

65. The introduction of Clause (2) in Article 226 of the Constitution of India widened the width of the area for issuance of writs by different High Courts, however, the same cannot be construed to completely dilute the original intent of the Constitution makers which is succinctly encapsulated in Clause (1) of Article 226. Rather, Clause (2) is an enabling provision, which supplements Clause (1) to empower the High Courts to ensure an effective enforcement of fundamental rights or any other legal right. Therefore, the power of judicial review cannot be circumscribed by the location of the authority against whom the writ is issued, however, the same does not mean that the constitutional mandate enshrined under Article 226 (1) can be completely neglected or whittled down.”

“67. Thus, the salient aspects which emerge out of the aforesaid discussion can be delineated forthwith as: (i) Article 226(2) does not take away the right of a High Court to dismiss a case on grounds of forum non-conveniens. The principles of forum non-conveniens and that of Article 226(2) operate in different field, where Article 226(2) (originally Article 226(1A)) was inserted to solve the problem of a litigant needing to go to a High Court where the seat of government authority was present. (ii) In other words, merely because Article 226(2) allows jurisdiction to be conferred on a High Court in the absence of the seat of a government authority being under its jurisdiction; this does not in itself mean that the presence of a seat shall automatically grant jurisdiction. (iii) Article 226(2) allows jurisdiction to be conferred if the cause of action,



either in part or whole, had arisen in the jurisdiction of a High Court, however, where the purported cause of action is so minuscule so as to make a particular High Court non- convenient, it is then that the concept of forum non conveniens applies.”

92. It is also a settled proposition of the law that the location where the tribunal/appellate authority/revisonal authority is situated would not be the sole consideration to determine the situs of the accrual of cause of action, ignoring the concept of forum conveniens in toto. Hence, even if a small part of the cause of action is established, and the same is found to be nonintegral or non-material to the lis, the court may invoke the doctrine of forum non-conveniens and decline to exercise its writ jurisdiction, if an alternative, more efficacious forum for the same exists.

93. A perusal of paragraph no. 10 of the decision in the case of State of Goa (supra), would signify that one of the prayers related to a challenge against the notification issued by the State of Sikkim. Also, in the said case, the petitioner company's office was also located in the State of Sikkim. However, the Hon'ble Supreme Court while considering that a slender part of the action has arisen, held that the High Court of Sikkim was not clothed with the requisite jurisdiction to entertain the petition as the major part of the cause of action has arisen in another High Court. It can be safely concluded that neither the notification issued by the concerned government, nor the location of the office were considered to be the material facts to determine the cause of action.

11. The aforesaid decision of this Court in case of **Bharat Nidhi** was challenged in LPA bearing No. 47 of 2024, wherein the Division Bench of this Court has affirmed the view taken by the learned Single Judge as under:



“21. The High Court while exercising its jurisdiction under Article 226 of the Constitution of India to entertain a writ petition, in addition to examining its territorial jurisdiction also examines if the said Court is the forum *conveniens* to the parties. The issue of forum *conveniens* is seen not only from the perspective of the writ petitioner but it is to be seen from the convenience of all the parties before the Court. In the facts of this case, as is evident from the record that the forum *conveniens* for the both the parties is Mumbai. The Appellants since the year 2020 have been appearing in Mumbai before SEBI in the SCN proceedings. In W.P.(C) 15556/2023 (as well as the other writs) the writ petitioner has sought a direction for summoning the records of SEBI for examining the legality and validity of the Impugned Revocation Order. In these facts, therefore, the objection of SEBI that Mumbai is the forum *conveniens* for the parties has merit. The obligation of the Court to examine the convenience of all the parties has been expressly noted by the Full Bench of this Court in *Sterling Agro Industries Ltd.* (*supra*)...”

12. The aforesaid reveals that the jurisdiction of a High Court is not solely determined on the basis of the location/situs of the authority. Moreso, even if the cause of action has arisen within the territorial jurisdiction of a particular High Court, the High Court may exercise its discretion, applying the doctrine of *forum conveniens*.

13. The concept of *forum conveniens* was identified in the case of ***Kusum Ingots***, as under:

“*Forum conveniens*

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor



compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See Bhagat Singh Bugga v. Dewan Jagbir Sawhney [AIR 1941 Cal 670 : ILR (1941) 1 Cal 490] , Madanlal Jalan v. Madanlal [(1945) 49 CWN 357 : AIR 1949 Cal 495] , Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd. [1997 CWN 122] , S.S. Jain & Co. v. Union of India [(1994) 1 CHN 445] and New Horizons Ltd. v. Union of India [AIR 1994 Del 126] .]”

14. The said principle has been reiterated by the Supreme Court in case of ***Ambica Industries vs. Commissioner of Central Excise***, (2007) 6 SCC 769, the relevant extract of the same is as below:

“41. Keeping in view the expression “cause of action” used in Clause (2) of Article 226 of the Constitution of India, indisputably even if a small fraction thereof accrues within the jurisdiction of the Court, the Court will have jurisdiction in the matter though the doctrine of forum conveniens may also have to be considered.

42. In Mussummat Chand Kour v. Partab Singh [(1887-88) 15 IA 156] , it was held: (IA pp. 157-58)

“[T]he cause of action has no relation whatever to the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the grounds set forth in the plaint as the cause of action, or, in other words, to the media upon which the plaintiff asks the court to arrive at a conclusion in his favour.”

15. Further, the said principle was authoritatively reiterated by a Full Bench of this Court in ***Sterling Agro Industries Ltd. vs. Union of India***, 2011 SCC OnLine Del 3162, wherein it has been held that even if a minuscule part of the cause of action arises within the jurisdiction of the Court, the same is



not determinative, and the doctrine of *forum conveniens* must be applied depending upon the factual matrix of each case. The relevant extract of the said case is reproduced as under:

“35. In view of the aforesaid analysis, we are inclined to modify the findings and conclusions of the Full Bench in New India Assurance Co. Ltd. v. Union of India, AIR 2010 Delhi 43 ; [2011] 166 C-C 87 (Delhi) and proceed to state our conclusions in seriatim as follows:

*(a) The finding recorded by the Full Bench that the sole cause of action emerges at the place or location where the Tribunal/appellate authority/revisional authority is situate and the said High Court (i.e., Delhi High Court) cannot decline to entertain the writ petition as that would amount to failure of the duty of the court cannot be accepted inasmuch as such a finding is totally based on the situs of the Tribunal/appellate authority/revisional authority totally ignoring the concept of *forum conveniens*.*

*(b) Even if a minuscule part of cause of action arises within the jurisdiction of this court, a writ petition would be maintainable before this court, however, the cause of action has to be understood as per the ratio laid down in the case of *Alchemist Ltd. v. State Bank of Sikkim* (2007) 136 C-C 665 ; (2007) 11 SCC 335.*

*(c) An order of the appellate authority constitutes a part of cause of action to make the writ petition maintainable in the High Court within whose jurisdiction the appellate authority is situated. Yet, the same may not be the singular factor to compel the High Court to decide the matter on merits. The High Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of *forum conveniens*.*

(d) The conclusion that where the appellate or revisional authority is located constitutes the place



of forum conveniens as stated in absolute terms by the Full Bench is not correct as it will vary from case to case and depend upon the lis in question.

(e) The finding that the court may refuse to exercise jurisdiction under article 226 if only the jurisdiction is invoked in a mala fide manner is too restricted/constricted as the exercise of the power under article 226 being discretionary cannot be limited or restricted to the ground of mala fide alone.

*(f) While entertaining a writ petition, the doctrine of forum conveniens and the nature of cause of action are required to be scrutinised by the High Court depending upon the factual matrix of each case in view of what has been stated in *Ambica Industries v. CCE (2007) 213 ELT 323 ; [2009] 20 VST 1 (SC)* and *Union of India v. Adani Exports Ltd. (2002) 1 SCC 567*.*

*(g) The conclusion of the earlier decision of the Full Bench in *New India Assurance Co. Ltd. v. Union of India, AIR 2010 Delhi 43 ; (2011) 166 C-C 87 (Delhi)* (page 115) :". . . that since the original order merges into the appellate order, the place where the appellate authority is located is also forum conveniens" is not correct.*

(h) Any decision of this court contrary to the conclusions enumerated hereinabove stands overruled."

16. From the cumulative perusal of the aforesaid precedents, it emerges that the litigant, being *dominus litis*, is entitled to approach the jurisdiction of his choice, where cause of action arises in two or more jurisdictions, however, it is upon the Court's discretion to exercise such jurisdiction, while keeping in mind whether it constitutes an appropriate and convenient forum for adjudication or not.



17. Applying the aforesaid settled legal principles to the facts of the present case, it is evident that both the petitioner and the State Authority (respondent No. 3), on whose report the criminal cases and impugned proceedings were initiated, are situated in the State of West Bengal. The criminal cases forming the predicate offences for issuance of the impugned Detention Order are pending within the territorial jurisdiction of the High Court of Calcutta, and the relevant records pertaining to the petitioner, his alleged criminal antecedents, and the said cases are also located in West Bengal. Furthermore, the petitioner has failed to disclose any cogent reason justifying invocation of the jurisdiction of this Court.

18. In view of the aforesaid discussion, this Court refuses to exercise its discretionary extraordinary jurisdiction, applying the doctrine of *forum conveniens*, and disposes of the present petition with liberty to the petitioner to approach the appropriate Court/forum.

19. Pending application(s), if any, also stand(s) disposed of.

20. Needless to state that notwithstanding dismissal of the present writ petition by this Court, it will be open to the petitioner to raise his dispute and seek redressal of his grievances by instituting appropriate proceedings before any other Court/forum including before the jurisdictional High Court.

**VIVEK CHAUDHARY
(JUDGE)**

**MANOJ JAIN
(JUDGE)**

JANUARY 12, 2026/kp/ht