

PREVENTIVE DETENTION

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Context:

The Supreme Court emphasized the need to prevent the arbitrary use of preventive detention powers, overturning a Telangana High Court decision.

Background:

It clarified that preventive detention is meant to avert future harm, not as a form of punishment, and should be based on careful consideration of facts.

About PREVENTIVE DETENTION:

1. Preventive detention involves detaining an individual without trial in order to prevent them from committing a crime.
2. Unlike criminal proceedings, which relate to punishing someone for an offense they have committed, preventive detention does not involve an offense.
3. The objective of preventive detention is prevention, not punishment.
4. It aims to prevent the detainee from engaging in activities prejudicial to the security of the state.

Legal Basis in India:

1. The power to enact preventive detention laws in India comes from the Constitution itself.
2. Article 22 of the Indian Constitution addresses preventive detention:
3. Article 22(3)(b) allows for preventive detention and puts restrictions on personal liberty to ensure state security and public order.
4. Article 22(4) states that no law providing for preventive detention shall authorize the detention of a person for a period longer than three months. In case of extended detention, an advisory board's report is required for sufficient cause.