Sri Sujit Das & Ors. v. Union of India

Whether the 24-hour period under Article 22(2) commences from actual curtailment of liberty or formal arrest, and whether investigative formalities can be excluded from its computation.

Date of Order: November 5, 2026
Case Law No: GIB-SC-2026-141
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The appellants were intercepted by the search team at about 2:00 p.m. on 29.09.2025 in connection with recovery of methamphetamine (Yaba) tablets under the NDPS Act. The search and seizure proceedings were completed at about 5:00 p.m. that day, but their formal arrest was recorded only at 11:00 a.m. and 11:15 a.m. on 30.09.2025. They were produced before the Magistrate at 4:45 p.m. on 30.09.2025. The appellants contended that their liberty had been curtailed from the time of interception and, therefore, production after 24 hours violated Article 22(2).

FIR is dated 29.09.2025 and that around 02:30pm of that day all the four accused persons were intercepted, and seizure was carried out in the presence of the witnesses.

3. Final Verdict

In paragraph 69, the Court summarized its conclusions. It held that the 24-hour period under Article 22(2) of the Constitution commences from the date and time of detention, when the person's liberty stands curtailed, and not from the time of formal arrest. If detention continues beyond 24 hours without production before the Magistrate, the person must be released forthwith. While computing the 24 hours, no period can be excluded except the time necessary for the journey from the place of arrest to the Magistrate's court. The Court further held that the decisions of the Orissa High Court in Aryaman Pattnayak, the Madras High Court in Kannan and the Kerala High Court in Arun K. Thomas do not lay down the correct law on the interpretation of Article 22(2).

We have our reservation on the aforesaid observations made by the Bench. First and foremost, the rights conferred by Article 21 of the Constitution of India are not only constitutional rights. These are fundamental rights. Right to life and liberty as enshrined in Article 21 are at the core of our constitutional jurisprudence. These fundamental rights cannot be tinkered with so lightly, not even

under the special statutes. Such observations run counter to numerous judgments of this Court which reiterate the proposition that when there is a violation of Article 21 of the Constitution, the rigor of Section 37 of the NDPS Act or similar provisions under the special statutes would have to give way.

The Court added that the detaining authority must not only observe the 24-hour deadline but also ensure that detention does not extend beyond a reasonable period within those 24 hours, in terms of Section 58 BNSS (Section 57 CrPC). At the time of production, the Magistrate is duty-bound to record the actual date and time of detention when liberty stood curtailed and to examine compliance with the 24-hour deadline; in case of breach, the person must be released forthwith. The Magistrate must also examine whether detention, though within 24 hours, has exceeded what is reasonable in the circumstances, and if so, may decline remand.

Applying these principles, the Court held that, for the reasons in paragraphs 65, 66 and 67, the detention of the appellants breached Article 22(2) and exceeded a reasonable period under Section 58 BNSS (Section 57 CrPC). It accordingly set aside the High Court's order dated 29.04.2026 and directed that the appellants be produced before the jurisdictional Special Court within a maximum of 7 days, whereafter they shall be released on bail on such terms and conditions as may be deemed appropriate.

Key observation: "Article 22(2) does not sanction creation of any buffer zone where the liberty of an individual is curtailed for investigating purposes but not formally shown as arrested."

Cases Referred by the Court in Reaching the Verdict

State of Punjab v. Sukhwinder Singh @ Gora – Supreme Court of India – 24 April 2026

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