

Preventive Detention Law

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About Preventive detention law:

- **What is detention?** Detention in its simplest sense means to curb the liberty of an individual i.e. without the knowledge of that individual.
- **There are 2 types of Detention**
 - Preventive Detention
 - Punitive Detention

What are Constitutional Provisions Related to the Preventive Detention?

- **Article 22:** This article under the Indian Constitution protects against arrest and detention in certain cases.
 - **Article 22 (1)** of the Indian Constitution says an **arrested person** cannot be **denied the right to consult**, and to be defended by, a legal practitioner of his choice.
 - It allows for preventive detention and restriction on personal liberty for reasons of state security and public order.
 - **Article 22 (4)** states that no law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless
 - An **Advisory Board reports** sufficient cause for extended detention.

- Such a person is detained in accordance with the provisions of any law made by the Parliament.
- The **44th Amendment Act of 1978** has reduced the period of detention without obtaining the opinion of an advisory board from three to two months. However, this provision has not yet been brought into force, hence, the original period of three months continues
- **Under Entry 9 of List I (the Union List)**, Parliament has the **exclusive power** to enact a law for preventive detention for the reasons connected with **defence, foreign affairs, or security of India.**
- **Under Entry 3 of List III ('Concurrent List')**, **both Parliament and State Legislature** have powers to enact such laws for the reasons related to the maintenance of public order or the maintenance of supplies or services essential to the community.
- **Legal Provisions:**
 - The **Preventive Detention Act, of 1950** talks about the detention of a person on the grounds of defence, foreign affairs or the security of the state.
 - **Under Section 151 of the Criminal Procedure Code, 1973** (CrPC) preventive detention is police action taken on grounds of suspicion that some wrong actions may be done by the person concerned.
 - A **police officer** can arrest **an individual without orders from a Magistrate** and any warrant if he gets any information that such an individual can commit any offence.
 - It is a **precautionary measure** and based on suspicion.

What is Punitive Detention?

- Punitive detention is detention as punishment for the crime committed by an individual. It takes place after the actual commission of an offence or at least after an attempt has been made.

Q1) What is Bail?

Bail is a legal process by which a person who has been arrested and charged with a crime is released from custody, pending their trial or other legal proceedings. The person who is released on bail is required to appear in court on a designated date and time.

Source: [Courts must keep a check on abuse of preventive detention law: SC](#)

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