

# Preventive detentions in 2021

September 7, 2022

**In news-** The National Crime Records Bureau(NCRB) has released Crime statistics recently.

## **Key highlights-**

- Preventive detentions in 2021 saw a **rise of over 23.7%** compared to the year before, **with over 1.1 lakh people being placed under preventive detention.**
- Of these, 483 were detentions under the National Security Act, of which almost half (241) were either in custody or still detained as of the end of 2021.
- A **total of over 24,500 people placed under preventive detention** were either in custody or still detained as of the end of last year – the **highest since 2017** when the NCRB started recording this data.
- The number of persons placed under detention has been increasing steadily since 2017.
- While the number of persons placed under preventive detention has seen an increase in 2021, the NCRB data showed that the number of people arrested in such a manner under the National Security Act had dipped significantly compared to 2020.
- Preventive detentions under the NSA peaked in 2020. This number dropped in 2021.
- NCRB said that **Tamil Nadu followed by Telangana and Gujarat invoked most number of orders under preventive detentions in 2021** among the States.
- **Jammu and Kashmir recorded the highest number of such detentions in Union Territories (UTs).**
- The highest number of detenees were in the age group 18 years to 30 years (45.9 percent) while those below 50 years were (40.8%).
- The highest number of detenees were lodged in central jails followed by district jails and special jails.

## What is preventive detention?

- Preventive detention is **the detention of a person on a mere reasonable apprehension of him doing an activity dangerous to public order and security**. Here, the person is confined in custody without undergoing a trial.
- According to **Section 151 of the Code of Criminal Procedure**, the police are empowered to make preventive arrests if they believe they must do so to prevent the commission of “any cognisable offence”. This detention can be extended beyond 24 hours if required “under any other provisions of this Code or of any other law”.
- **Section 149-153 of CrPC** also deals with the Preventive actions of the Police.
- District magistrates and the police also often make preventive detentions to control law and order in emerging communal clashes or clashes between any two communities – even when it might not always lead to public disorder.
- **Article 22(3)** of the Indian constitution provides that if the person who has been arrested or detained under preventive detention laws then the protection against arrest and detention provided under article 22 (1) and 22 (2) shall not be available to that person.
- **Article 22(4)** also state 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.
- **The 78th amendment to article 22** provided that no law providing for preventive detention shall authorise the detention of a person for a longer period than two months unless an Advisory Board constituted in accordance with the recommendations of the Chief Justice of the appropriate High Court has reported before the expiration of the said period of two months that there is in its opinion sufficient cause for such detention.

## Use of laws for preventive detention-

Following are the laws which are mostly used for preventive detentions:

- The Goonda Act (State and Central).
- Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.
- Section 151 of the Code of Criminal Procedure.
- National Security Act.
- Public Safety Act.
- Narcotic Drug and Psychotropic Substance Act.
- Conservation of Foreign Exchange and Prevention of Smuggling Activities Act(COFEPOSA).
- Prohibition of Insider Trading (PIT).
- Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980( (PBMSECA)among others.