

Public Safety Act

October 26, 2021

In news- Recently around 700 people were detained in Jammu and Kashmir, including a few under the stringent Public Safety Act (PSA). The crackdown came ahead of Mr. Amit Shah's first visit to J&K after Article 370 of the Constitution was repealed.

About the Jammu & Kashmir Public Safety Act (PSA), 1978-

- It is a **preventive detention law**, under which a person is taken into custody to prevent him or her from acting in any manner that is prejudicial to "the security of the state or the maintenance of the public order".
- It is very similar to the National Security Act (NSA) that is used by other state governments for preventive detention.
- It **comes into force by an administrative order passed either by Divisional Commissioner or the District Magistrate**, and not by a detention order by police based on specific allegations or for specific violation of laws.
- The PSA **allows for detention of a person without a formal charge and without trial**.
- It can be slapped on a person already in police custody; on someone immediately after being granted bail by a court; or even on a person acquitted by the court.
- **Detention can be up to two years.**
- Unlike in police custody, a person who is detained under the PSA need not be produced before a magistrate within 24 hours of the detention.
- The detained person **does not have the right to move a bail application before a criminal court**, and cannot engage any lawyer to represent him or her before the detaining authority.

- The only way this administrative preventive detention order can be challenged is through a habeas corpus petition filed by relatives of the detained person.
- The High Court and the Supreme Court have the jurisdiction to hear such petitions and pass a final order seeking quashing of the PSA.
- However, if the order is quashed, there is no bar on the government passing another detention order under the PSA and detaining the person again.
- There can not be prosecution or any legal proceeding against the official who has passed the order.
- After an amendment recently by the J&K Governor, persons detained under the PSA can now be detained in jails outside the state.