Preventive Detention

Why in News?

The Supreme Court has allowed a plea against preventive detention of a man allegedly engaged in organized smuggling, as the detaining authorities failed to consider conditions imposed on him.

- **Recent SC Ruling -** Preventive detention prescribed safeguards must be strictly observed to ensure due compliance with constitutional and statutory norms and requirements.
- **Preventive detention** – It is the act of detaining someone ***without a court trial or conviction.***
- It is used to ***prevent someone from committing*** a crime or disrupting public order.
- **Purpose -** To prevent someone from committing a crime,
- To prevent someone from disrupting public order,
- To prevent someone from escaping prosecution, and
- To maintain national security.
- **Constitutional provisions -** Article 22(3) of the Constitution allows preventive detention for reasons of state security and public order.
- The Constitution provides safeguards for people in preventive detention.
- Both Parliament and State Legislature have powers to enact a law for preventive detention while Parliament has exclusive power over reasons connected with defence, foreign affairs, or security of India.
- **Related Laws**
  - Foreign Exchange Conservation and Prevention of Smuggling Activities, 1974 (COFEPOSA)
  - Unlawful Activities (Prevention) Act, 2008 (UAPA)
- **Previous rulings of Supreme Court -**The Supreme Court has ruled that advisory boards should prevent the state from using power capriciously
- The Supreme Court has ruled that the grounds for preventive detention should be communicated to the detainee as soon as possible
- **Landmark case -** The A K Gopalan v/s State of Madras case related to the Preventive Detention Act of 1950.

Reference

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