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**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Gurwinder Singh

Petitioner,

v.

MARK BOWEN, Acting-Warden of the Adelanto
Detention Center; TODD LYONS, Acting
Director of Immigration and Customs
Enforcement; KRISTI NOEM, Secretary of the
U.S. Department of Homeland Security; PAMELA
BONDI, Attorney General of the United States

Respondents.

Civil Action No.

**VERIFIED PETITION FOR
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, is being unlawfully detained by Respondents and deprived of release on bond. Petitioner was born in India and entered the United States on September 10, 2024. He entered the U.S. without inspection and was briefly detained by Department of Homeland Security (“DHS”). Petitioner was released by DHS on an Interim Notice Authorizing parole. The conditions of release required Petitioner to be placed on Alternative to Detention (“ATD”) monitoring and mandated that Petitioner check in with Immigration and Customs Enforcement (“ICE”) every three months.

2. On the October 24, 2024, DHS served Petitioner with a Notice to Appear (“NTA”)

1 which designated him as “an alien present in the United States who has not been admitted or paroled”
2 and charged him with removability pursuant to section 212(a)(6)(A)(i) of the Immigration and
3 Nationality Act as an “alien present in the United States without being admitted or paroled, or who
4 arrived in the United States at any time or place other than as designated by the Attorney General.”

5
6 3. Following his release from detention, Petitioner timely filed a Form I-589, Application
7 for Asylum with the immigration court. Petitioner also obtained gainful employment and complied all
8 the conditions of his Release conditions. Petitioner has no criminal history. Nonetheless, ICE detained
9 Petitioner unexpectedly on November 29, 2025 outside of his residence when he was leaving to go to
10 work.

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12 4. Petitioner is subject to pre-final order of removal detention under 8 U.S.C. § 1226(a).
13 Noncitizens detained under section 1226(a) are subject to discretionary detention and can request a
14 change in custody redetermination (i.e. bond hearing) with an Immigration Judge (“IJ”). However, on
15 July 8, 2025, DHS issued an internal Interim Guidance (“Policy”) that took the baseless position that—
16 contrary to statutory principles and governing case law—noncitizens like Petitioner who entered the
17 United States without permission or parole are subject to mandatory detention under 8 U.S.C. § 1225(b)
18 instead of discretionary detention under section 1226(a). On September 5, 2025, the Board of
19 Immigration Appeals (“BIA”) issued a decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA
20 2025) that sided with DHS’ position.

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22 5. DHS’ contention that Petitioner is subject to mandatory detention under 8 U.S.C. §
23 1225(b) is without merit. DHS’ Policy has upended decades of DHS’ own interpretation of bond
24 eligibility under sections 1226(a) and 1225(b). The vast majority of district courts across the country
25 that has addressed this issue have rejected DHS’ arguments and found that it violates the INA and
26 noncitizens’ due process rights.
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1 14. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United
2 States and the senior official of the U.S. Department of Justice. In that capacity, she has the authority to
3 adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which
4 administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

5 **STATEMENT OF FACTS**

6 15. Petitioner is a native and citizen of India. He entered the United States on September 10, 2024
7 and expressed a credible fear of return. He was served with a Notice to Appear and placed into removal
8 proceedings. See Exhibits A.

9
10 16. Petitioner has no criminal history, no history of violence, and no factors indicating
11 danger or flight risk.

12 17. ICE previously considered Petitioner for parole but nonetheless denied release despite
13 Petitioner meeting the applicable parole criteria. See Ex. B Parole Release.

14
15 18. Petitioner has now been detained for an excessive and constitutionally significant
16 period, far beyond what courts in the Ninth Circuit have deemed permissible without a bond hearing.
17 Petitioner’s detention has therefore become prolonged and punitive in nature.

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19 19. Petitioner’s continued detention at Adelanto ICE Processing Center—one of the most
20 heavily criticized detention facilities in the Ninth Circuit—has caused significant hardship and
21 constitutes irreparable harm.

- 22
23 1. Petitioner is a native and citizen of India.
24 2. Petitioner entered the United States on or about September 10, 2024, and expressed a credible
25 fear of persecution.
26 3. Petitioner was issued a Notice to Appear initiating removal proceedings. See *Exhibit A, NTA*.
27 4. Petitioner requested and was eligible for parole; however, ICE denied release. See *Exhibit B,*
28 *Parole Request/Decision*.
5. Petitioner has no criminal history, no danger to the community, and poses no flight risk.
6. Petitioner’s detention has now become prolonged and unconstitutional, lacking adequate
procedural protections.

1 7. Following his release from detention, Petitioner timely filed a Form I-589, Application for
2 Asylum, with the immigration court. He subsequently obtained stable employment and fully
3 complied with all conditions of his release on recognizance (ROR). Petitioner has no criminal
4 history. Nevertheless, on November 29, 2025, ICE agents unexpectedly detained Petitioner while
5 he was leaving his home to go to work. ICE had been searching for another individual at the
6 location but stopped Petitioner, questioned him about his immigration status, and took him into
7 custody without prior notice.

8 STATUTORY FRAMEWORK

9 20. The INA prescribes three basic forms of detention for noncitizens in removal
10 proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-expedited
11 removal proceedings before an IJ. *See* 8 U.S.C. § 1226(a); 8 U.S.C. § 1229a. Individuals in section
12 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
13 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain
14 crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

15 21. Second, the INA provides for mandatory detention of noncitizens subject to expedited
16 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under
17 8 U.S.C. § 1225(b)(2).

18 22. Finally, the INA also provides for detention of noncitizens who are subject to final
19 orders of removal, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
20 The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal
21 Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div.
22 C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(c) was most
23 recently amended earlier this year by the Laken Riley Act (“LRA”), Pub. L. No. 119-1, 139 Stat. 3
24 (2025).

25 23. Following enactment of the IIRIRA, the EOIR drafted new regulations explaining that,
26 in general, people who entered the country without inspection were not considered detained under
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1 section 1225 and that they were instead detained under section 1226(a). *See* Inspection and Expedited
2 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
3 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens
4 who entered without inspection—unless they were subject to some other detention authority—received
5 bond hearings. This practice was also consistent with the practice prior to the enactment of the IIRIRA,
6 in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ
7 or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229
8 (1996) (noting that section 1226(a) simply “restates” the detention authority previously found at section
9 1252(a)).
10

11
12 24. On July 8, 2025, DHS issued a memo to all employees of ICE stating that “[t]his
13 message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited
14 its legal position on detention and release authorities. DHS has determined that section 235 of the
15 Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226],
16 is the applicable immigration detention authority for all applicants for admission. The following interim
17 guidance is intended to ensure immediate and consistent application of the Department’s legal
18 interpretation while additional operational guidance is developed.” The memo further stated DHS’ new
19 position with regard to custody determinations as follows:
20

21 An “applicant for admission” is an alien present in the United States who has not been admitted
22 or who arrives in the United States, whether or not at a designated port of arrival. INA §
23 235(a)(1) [8 U.S.C. § 1225(a)(1)]. **Effective immediately, it is the position of DHS that such**
24 **aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be**
25 **released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible
26 for a custody redetermination hearing (“bond hearing”) before an immigration judge and may
27 not be released for the duration of their removal proceedings absent a parole by DHS. For
28 custody purposes, these aliens are now treated in the same manner that “arriving aliens” have
historically been treated. **The only aliens eligible for a custody determination and release**
on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during
removal proceedings are aliens admitted to the United States and chargeable with
deportability under INA § 237, with the exception of those subject to mandatory detention

1 to detention under 8 U.S.C. § 1225(b) and is ineligible for bond and his continued detention under the
2 automatic stay provision at 8 C.F.R. § 1003.19(i)(2), which violates Petitioner's right to substantive
3 due process of law afforded him through the Fifth Amendment to the United States Constitution.

4 29. The Fifth Amendment provides in pertinent part: "No person shall be . . . deprived of
5 life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. "Freedom from
6 imprisonment—from government custody, detention, or other forms of physical restraint—lies at the
7 heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

9 30. Petitioner is clearly detained pursuant to 8 U.S.C. § 1226(a) and is eligible for release
10 on bond. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b). Respondents have
11 violated Petitioner's due process rights under the Fifth Amendment by detaining him without the
12 possibility of release on bond.

14 31. As a remedy, the Court should order him released from detention, or alternatively direct
15 that an IJ hold a constitutionally adequate bond hearing.

16 COUNT TWO

17 **Violation of Petitioner's Procedural Due Process Rights**

18 32. The allegations in the above paragraphs are realleged and incorporated herein.

20 33. In *Mathews v. Eldridge*, the U.S. Supreme Court set forth the factors to consider in
21 determining if government action deprives an individual's Fifth Amendment right to procedural due
22 process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976) The
23 *Mathews* factors are as follows: First, the private interest that will be affected by the official action;
24 [S]econd, the risk of an erroneous deprivation of such interest through the procedures used, and the
25 probable value, if any, of additional or substitute procedural safeguards; [Third], the Government's
26 interest, including the function involved and the fiscal and administrative burdens that the additional
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1 or substitute procedural requirement would entail. *Id.* at 335.

2 34. As to the private interest factor, it is the "most elemental of liberty interests." *Hamdi v.*
3 *Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner has perhaps the most acute private interest known to
4 personkind short of life itself: bodily freedom.

5 35. With respect to the second factor, erroneous deprivation of Petitioner's liberty is at risk.
6 Petitioner is not subject to detention under 8 U.S.C. § 1225(b) as DHS claims. As to the third factor,
7 there is no significant governmental interest in continuing to hold Petitioner in custody, particularly
8 because an IJ has already found that Petitioner has satisfied his burden that he is not a danger to the
9 community or risk of flight when it released him on ROR, and he has no criminal history or violations
10 of the conditions of his release.
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13 **COUNT THREE**

14 **Violation of the Immigration and Nationality Act**

15 36. The allegations in the above paragraphs are realleged and incorporated herein.

16 37. Application of 8 U.S.C. § 1225(b) to Petitioner is a violation of the INA because he is
17 instead subject to discretionary detention under 8 U.S.C. § 1226(a). This deprives noncitizens like
18 Petitioner of the right to a bond hearing that they are statutorily eligible for and eliminates the authority
19 of the IJ to determine who can be released on bond.
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21 **PRAYER FOR RELIEF**

22 Wherefore, Petitioner requests this Court to grant the following:
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- 24 1. Assume jurisdiction over this matter;
- 25 2. Enjoin Respondents from transferring Petitioner during the pendency of the instant action;
- 26 3. Declare that Petitioner's continued detention violates the Immigration and Nationality Act,
27 8 U.S.C. § 1226(a); and/or the Fifth Amendment to the U.S. Constitution;
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- 1 4. Order Immediate release from ICE custody; or
- 2 5. In the alternative, an individualized bond hearing before a neutral adjudicator within 7 days,
- 3 with the government bearing the burden of proof by clear and convincing evidence;
- 4
- 5 6. Grant any other further relief this Court deems just and proper.
- 6

7 Respectfully,

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16 **VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

17 I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained
18 at the Adelanto Detention Facility and immediate relief is sought, counsel verifies this petition on his
19 behalf pursuant to 28 U.S.C. § 2242. I hereby verify that the factual statements made in the foregoing
20 Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

21 Dated this 10th day of December, 2025.

22
23 
24 _____
25 Gurpreet Kaur, Esq.