

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU
(THROUGH VC)

Reserved on: 03.09.2025

Pronounced on: 16.09.2025

CJ Court

LPA No.98/2025

Ajaz Ahmad, aged:36 years S/o Abdul Majid
R/o Kothra Nadian, Tehsil Drahal, District
Rajouri at present lodged in District Jail,
Dhangri, Rajouri Through wife, Nusrat Jaan
W/o Ajaz Ahmad R/o Kotha Nadian, Tehsil
Drahal, District Rajouri

...APPELLANTS(S)

Through: - Mr. Waheed Choudhary, Advocate.

Vs.

1. UT of J&K through Principal Secretary, Home Department,
Civil Secretariat, Jammu/Srinagar.
2. Divisional Commissioner, Jammu.
3. Senior Superintendent of Police, Rajouri.

...RESPONDENT(S)

Through: - Ms. Monika Kohli, Sr. AAG

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

OSWAL 'J'

1) The appellant was detained in terms of the order No. PITNDPS 38 of 2024 dated 09.10.2024, issued by respondent No.2 under Section 3 of Prevention of Illicit Traffic in Narcotic Drugs and Psychotropics Act, 1988 so as to prevent him from indulging in illicit trafficking of narcotic drugs and psychotropic substances.

2) Aggrieved of the order dated 09.10.2024 (supra), the appellant assailed the same through the medium of HCP

No.143/2024 preferred by the appellant through his wife on various grounds, which was strongly objected to by the respondents. The learned Writ Court, after hearing the parties, dismissed the writ petition vide its judgment dated 05.05.2025.

3) Aggrieved of the judgment dated 05.05.2025 passed by the learned Writ Court, the appellant has assailed the same on the following grounds:

- (I) That the learned Writ Court has failed to appreciate as to how the substantive law has failed to prevent the appellant from indulging in illegal activities;
- (II) That the appellant was not provided with the incriminating documents, on the basis of which the grounds of detention were framed by the detaining authority;
- (III) That there was a gap of seven months between the FIR registered against the appellant and the passing of order of detention, as such there is delay in passing the order of detention, but the learned writ court has not rightly appreciated this contention of the appellant.

4) Mr. Waheed Choudhary, learned counsel for the appellant, has argued that the appellant was already enlarged on bail in both the FIRs which formed the basis of grounds of detention and the consequent order of detention but the learned Writ Court has not rightly appreciated this issue while deciding the writ petition and further has not

considered the contention of the appellant as to how the ordinary law of law failed to prevent the appellant from indulging in illegal activities. He has also argued that there was delay in passing the detention order and that whole of the material relied upon by the detaining authority was not provided to the appellant by the detaining authority.

5) *Per contra*, Ms. Monika Kohli, learned senior AAG, has submitted that the appellant initially figured as an accused in FIR No.93/2020 under Section 8(a)/20 of NDPS Act wherein chargesheet was also filed against him but instead of mending his activities, the appellant again involved himself in the commission of another similar offence as FIR No.15/2024 under Section 8/21/22 of NDPS Act was registered against him in March, 2024, which clearly shows that the normal law has not proved to be sufficient in preventing appellant from indulging in illegal activities. She has further submitted that there was no delay in passing the detention order because the appellant was released on bail in FIR No.15/2024 on 22.04.2024. It was also submitted by her that in the instant case all the legal, statutory and constitutional imperatives have been adhered to and complied with by the respondents.

6) Heard and perused the record.

7) The first contention raised by the appellant is that the learned Writ Court has not appreciated as to how the ordinary law has proved to be insufficient to prevent the appellant from indulging in illegal activities. The argument though appears to be attractive but deserves rejection. The appellant was first involved in FIR No.93/2020 wherein, the allegation against the appellant is in respect of 350 grams of charas. Though he was released on bail but still he indulged himself in commission of similar type of offence, as is evident from FIR No.15/2024, wherein he was found to be in possession of 6/7 grams of heroin i.e. intermediate quantity of contraband substance. The appellant's acts in indulging himself in commission of similar offences provided sufficient ground to the detaining Authority to detain the appellant and the detaining Authority has recorded its satisfaction in the grounds of detention that substantive law has failed to deter the appellant from indulging in illicit traffic. The learned writ court has duly considered this contention of the appellant and has rightly rejected the same.

8) It was next contended that there is delay of seven months in the registration of FIR and the issuance of order of detention. The perusal of the record depicts that the appellant was arrested in FIR No.15/2024 on 21.03.2024 and was released on bail on 22.04.2024 whereas the order

of detention has been issued on 09.10.2024. The learned Writ Court has returned a finding that the time gap between the last incident in which the appellant was found involved and the passing of impugned order of detention is not too large to presume that the link between the two is snapped. It needs to be noted that the dossier in respect of the appellant was prepared on 18.09.2024 and some time was consumed by the detaining authority in preparing the grounds of detention and issuance of order of detention, as such, we are in perfect agreement with the reasoning of the learned Writ Court while rejecting claim of the appellant in respect of issuance of order of detention on stale grounds. The co-ordinate Bench of this court in case titled **“Jahangir Ahmed Dar vs. U.T of J and K” LPA No. 12/2023**, decided on 12.02.2024, rejected the contention of the appellant therein that there was delay in passing the order of detention, as last illegal activity was attributed to the appellant there in, was in respect of FIR registered in March 2021, whereas the order of detention was issued in the month of October, 2021. The gap of 6 months from the release of the appellant from jail in respect of illegal activities attributed to him and issuance of order of detention, cannot be termed as too longer a period for the live link, to be

snapped. Thus, this contention raised by the appellant is mis-conceived and is rejected.

9) Lastly, it was contended that whole of the material relied upon by the detaining authority was not provided to the appellant. The learned counsel for the appellant has tried to persuade this Court in respect of incongruence between the execution of warrant and receipt of warrant. No doubt, in the execution report, it is mentioned that copies of detention warrant and grounds of detention have been provided to the appellant but equally true is that in the receipt of detention warrant, 56 leaves including two leaves of detention warrant, three leaves of grounds of detention, one leaf notice and other supporting documents (50 leaves) were received by the appellant and in lieu thereof, the appellant appended his signatures on the receipt of detention warrant. The appellant has himself placed on record the grounds of detention, dossier and other documents along with his writ petition, which belies his contention that whole of the material was not provided to him. The non-mentioning of documents in detail, stated to have been received by the appellant, in the execution of warrant is inconsequential and cannot be said to have caused any violation of statutory and constitutional safeguards particularly when the receipt of detention

warrant bears testimony to the fact that all the documents relied upon by the detaining authority were received by the appellant. This fact stands substantiated by the documents placed on record by the appellant himself along with his writ petition, as such, this contention is also liable to be rejected and is, accordingly rejected.

10) In view of the above, we do not find any merit in this appeal and the same is, accordingly, dismissed.

11) The record be returned to learned counsel for the respondents.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
16.09.2025
“Bhat Altaf”

Whether the **Judgment** is speaking: **Yes**
Whether the **judgment** is reportable: **No**