

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

HCP No. 109/2025

Date of pronouncement: 04.12.2025

Date of uploading: 08.12.2025

Raj Singh
S/o Sh. Thakur Singh
R/o Ward No. 12, Pujari Mohalla,
Tehsil Katra & District Reasi.
Through his wife
Payal Sharma, W/o Sh. Raj Singh
R/o Ward No. 12, Pujari Mohalla,
Tehsil Katra & District Reasi

.....Appellant(s)/Petitioner(s)

Through: Mr. Sandeep Singh, Advocate

vs

1. UT of J&K th. Principal Secy. to Govt.,
Home Deptt., Civil Secretariat, Jammu.
2. Divisional Commissioner, Jammu.
3. Senior Superintendent of Police, Reasi.
4. Superintendent, Central Jail, Kot Bhalwal,
Jammu.

..... Respondent(s)

Through: Ms. Priyanka Bhat, Advocate vice
Ms. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE
ORDER (ORAL)

1. The petitioner herein has challenged detention order No. PITNDPS-49 of 2025 dated 30.07.2025 [for short **“the impugned order”**] passed by Divisional Commissioner, Jammu-respondent 2 herein [for short **“the Detaining Authority”**] under and in terms of the provisions of Prevention of Illicit Traffic in Narcotics and Psychotropic Substances Act, 1988 [for short **“the Act”**].
2. The petitioner has challenged the impugned order on multiple grounds urged in the petition. Counter affidavit to the petition has been filed,

wherein the petition is being opposed on the premise that a dossier in respect of the petitioner came to be furnished by Senior Superintendent of Police, Reasi to the Detaining Authority and that after carefully examining the same as also the other relevant record attached therewith, it was found that the preventive detention of the petitioner under the Act is imperative as the petitioner, after obtaining bail in drug related cases, again got involved in the drug activities posing thereby serious threat to public order as well as to the health and welfare of the people and since ordinary law was found to have fail to bar the petitioner from drug related activities, the preventive detention of the petitioner was ordered by the Detaining Authority and that at the time of the execution of the detention order, the petitioner was provided all relevant documents along with detention order, grounds of detention consisting of 67 leaves and also came to be explained the same in the language i.e. Hindi, which the petitioner understood besides informing that he can make representation against his detention before the Government as well as the Detaining Authority.

Heard learned counsel for the parties and perused the record.

3. Learned counsel for the petitioner, while making his submissions in tune with the case set up in the petition would confine the challenge to the impugned order primarily on the ground that the Detaining Authority could not have detained the petitioner under preventive law if the petitioner have had violated any of the terms of bail orders

granted to him in the FIRs, referred and relied upon by the Detaining Authority and that the said bail orders could have been instead either sought to be cancelled or else challenged on account of the repetition of the alleged offences by the petitioner after obtaining the said bail orders. On the contrary, the counsel for the respondents, while controverting the aforesaid submission of the counsel for the petitioner would rely upon the contents of the counter affidavit and would also submit that a preventive detention can be made with or without involvement of a person in a criminal case and also in anticipation or after discharge or even acquittal and that owing to the continuous involvement of the petitioner in drug related activities even after obtaining bail in the FIRs, the petitioner was involved in, the Detaining Authority rightly invoked the provisions of the Act and ordered preventive detention of the petitioner.

4. Having regard to the aforesaid sole ground urged by the counsel for the petitioner against the impugned order, the other ground urged by the petitioner in the petition bear no significance and need not to be adverted.
5. Insofar as the aforesaid ground of challenge urged by the counsel for the petitioner is concerned, law stands settled and is no more *res integra* in a series of judgments of the Apex Court including the case titled as “*Haradhan Saha. Vs. State of West Bengal & Ors.*” Reported in (1975) 3 SCC 198, wherein at para 32 and 33, following has been laid down:

“32. The power of preventive detention is qualitatively different from punitive detention. The power of preventive detention is a precautionary power exercised in reasonable anticipation. It may or may not relate to an offence. It is not a parallel proceeding. It does not overlap with prosecution even if it relies on certain facts for which prosecution may be launched or may have been launched. An order of preventive detention, may be made before or during prosecution. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even acquittal. The pendency of prosecution is no bar to an order of preventive detention. An order of preventive detention is also not a bar to the prosecution.

33. Article 14 is inapplicable because preventive detention and prosecution are not synonymous. The purposes are different. The authorities are different. The nature of proceedings is different. In a prosecution an accused is sought to be punished for a past act. In preventive detention, the past act is merely the material for inference about the future course of probable conduct on the part of the detenu.”

6. Since the Apex Court in the Judgment (supra) has authoritatively held that an order of preventive detention can be made before or during the prosecution and in anticipation or after discharge or even acquittal and also that the pendency of prosecution is no bar to an order of preventive detention and so also is not an order of preventive detention a bar to the prosecution, the aforesaid ground urged by the counsel for the petitioner is found to be legally unsustainable.
7. Viewed thus for the aforesaid reason the instant petition fails, as a consequence whereof, same is dismissed.

8. The detention record produced by the counsel for the respondents is returned back in open Court.

9. **Disposed of.**

(Javed Iqbal Wani)
Judge

Jammu
04.12.2025
Vishal Sharma

Whether the order is reportable: Yes

Whether the order is speaking: Yes

