

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

HCP No. 5/2025

Reserved On: 22nd of April, 2025.
Pronounced On: 5th of June, 2025.

Parvaiz Ahmad Matoo

... Petitioner(s)

Through: -

Mr G. N. Shaheen, Advocate.

V/s

Union Territory of J&K and Ors.

... Respondent(s)

Through: -

Mr Ilyas Nazir Laway, Government Advocate.

CORAM:

Hon'ble Mr Justice Rahul Bharti, Judge.

(JUDGMENT)

01. Heard learned counsel for the parties.
02. Perused the pleadings of the writ petition and the record therewith.
03. The petitioner-Parvaiz Ahmad Matoo, acting through his father-Manzoor Ahmad Matoo, came to file this writ petition on 3rd of January, 2025 thereby seeking a writ of *habeas corpus* for quashment of order No. 24/DMK/PSA/2024 dated 29th of November, 2024 passed by the respondent No.2-District Magistrate, Kulgam thereby directing the

preventive detention of the petitioner so as to prevent him from acting in manner prejudicial to the security of the State and thereby directing his arrest and detainment in the District Jail, Poonch.

04. On the basis of the said detention order No. 24/DMK/PSA/2024 dated 29th of November, 2024, the petitioner came to be taken into custody on 4th of December, 2024 by ASI Syed Rasool of Police Station, Kulgam whereupon the petitioner came to be handed over to the Superintendent District Jail, Poonch and the petitioner is, thus, serving his detention custody w.e.f. 4th of December, 2024 onwards.

05. A case for preventive detention custody of the petitioner was sponsored by the Superintendent of Police (SP), Kulgam who, vide his communication No. Legal/PSA-2024/1445-48 dated 5th of November, 2024, came to submit a dossier to the respondent No.2-District Magistrate, Kulgam thereby urging exercise of jurisdiction under the Jammu & Kashmir Public Safety Act, 1978 to detain and restrain the petitioner from acting in manner prejudicial to the security of the State and that led to the formulation of grounds of detention by the respondent No. 2- District Magistrate, Kulgam wherein the petitioner's

antecedents by reference to FIR No. 31/2015 registered by the Police Station, Kulgam for alleged commission of offences under sections 147/148/149/336/307/435 of the Indian Penal Code (IPC); FIR No. 23/2017 registered by the Police Station, Yaripora for alleged commission of offences punishable under sections 120-B/ 121 RPC read with Sections 10/13/18 of the Unlawful Activities (Prevention) Act and 7/25 Indian Arms Act and FIR No. 50/2020 registered by the Police Station, Qazigund for the alleged commission of offences punishable under Sections 10/13/18/19/38/39/40 of the of the Unlawful Activities (Prevention) Act, 3/4 Explosive Substances Act came to be highlighted.

06. The latest antecedent which came to be reflected in the grounds of detention is purported proceeding initiated against the petitioner under sections 107/151 of the Code of Criminal Procedure (Cr. P. C.) on 15th of April, 2024 and 27th of May, 2024 before the Executive Magistrate as being the precipitating cause for ordering the preventive detention of the petitioner.

07. This Court in writ petition WP (CrI) No. 256/2021 by reference to a preventive detention order

also passed by the District Magistrate, Kulgam against one Yasir Fayaz Rah under the J&K Public Safety Act, 1978 came to hold that the text of the detention order in the said case opening with words **“Whereas, on the basis of grounds of detention placed before me by the Superintendent of Police, Kulgam”** renders the very basic detention order legally flawed and faulty and, thus, quashed the detention of the detainee-Yasir Fayaz Rah by virtue of a judgment dated 29th of December, 2021.

08. Second time detention of very said Yasir Fayaz Rah by repeat of the text of the quashed detention order came to be challenged in HCP No. 12/2025 wherein also this Court has come to quash the second time detention order of the said detainee-Yasir Fayaz Rah.

09. In the present case, the detention order is also opening with the identical text, i.e., **“Whereas, on the basis of grounds of detention placed before me by the Superintendent of Police, Kulgam”** and, therefore, the fate of the preventive detention of the petitioner in terms of challenge to it cannot be

different to the one in the case of Yasir Fayaz Rah in WP (CrI) No. 256/2021 and HCP No. 12/2025.

10. Thus, the preventive detention of the petitioner is hereby held to be based upon a flawed and faulty detention order rendering his preventive detention illegal right from its very inception, as such, requires to be set aside

11. Resultantly, detention order No. 24/DMK/PSA/2024 dated 29th of November, 2024 passed by respondent No.2-District Magistrate, Kulgam read with any approval/confirmation or extension orders whatsoever related to the preventive detention of the petitioner are hereby quashed.

12. The petitioner, who is detained in District Jail, Poonch, is directed to be released forthwith or in case if he is lodged in any other jail, upon being shifted from the said District Jail, Poonch, then from the very said jail.

13. **Disposed of.**

(Rahul Bharti)
Judge

SRINAGAR
June 5th, 2025
"TAHIR"

Whether the Judgment is approved for reporting?

Yes/ No.