

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

HCP No. 106/2024

Reserved On: 3rd of April, 2025.
Pronounced On: 4th of June, 2025.

Waseem Ahmad Dar

... Petitioner(s)

Through: -

Ms Suwaiba, Advocate.

V/s

Union Territory of J&K and Ors.

... Respondent(s)

Through: -

None.

CORAM:

Hon'ble Mr Justice Rahul Bharti, Judge.

(JUDGMENT)

01. Heard learned counsel for the petitioner.
02. Perused the pleadings of the writ petition and the record therewith.
03. The petitioner-Waseem Ahmad Dar, acting through his father-Ghulam Hassan Dar, came to file the present writ petition on 19th of April, 2024 thereby seeking a writ of *habeas corpus* for restoration of his personal liberty otherwise lost because of issuance of

detention order passed by the respondent No.2-District Magistrate, Kulgam under the Jammu & Kashmir Public Safety Act, 1978.

04. The respondent No.2-District Magistrate, Kulgam, by virtue of his Order No. 07/DMK/PSA/2024 dated 29th of March, 2024, came to hold the petitioner's reported activities being prejudicial to the security of the State, therefore, warranting his preventive detention under Section 8 (1) (a) of the Jammu & Kashmir Public Safety Act, 1978 and, thus, ordering his detention and confinement in the Central Jail, Srinagar.

05. The purported antecedents which resulted in the petitioner's preventive detention are stated in the grounds of detention wherein it came to be mentioned that the petitioner was involved in criminal case bearing FIR No. 187/2013 registered by the Police Station, Kulgam for commission of offences under sections 147/148/149/336/332/188/427 of the Ranbir Penal Code (RPC) and criminal case bearing FIR No. 47/2013 registered by the Police Station

Kulgam for commission of offences under sections 147/148/336/427 of the Ranbir Penal Code (RPC).

06. By reference to the aforesaid two FIRs and petitioner's alleged involvement therein, the respondent No.2-District Magistrate, Kulgam came to hold that the petitioner was working for terrorist cadres/ outfits by providing logistic support to terrorist '**origination**' from time to time, particularly for (LET) outfit terrorist-Junaid Ahmad Bhat thereby putting the humanity in distress, chaos and embarrassment.

07. The petitioner has assailed his preventive detention, *inter alia*, on the grounds as projected in paragraph Nos. 3 (i) to (xiii) of the writ petition.

08. The petitioner came to make a representation to the respondent No.2-District Magistrate, Kulgam thereby seeking revocation of his preventive detention. The representation was submitted in the office of respondent No.2-District Magistrate, Kulgam on 3rd of April, 2024 against a written receipt.

09. In the counter affidavit filed on behalf of the respondents, emphasis has been laid by the respondents on the petitioner's involvement in the said FIRs which led to the passing of the detention order against him and he coming to be detained on 30th of March, 2024.

10. This Court in writ petition WP (Crl) No. 256/2021 by reference to a detention order also passed by the District Magistrate, Kulgam against one Yasir Fayaz Rah 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”** rendered the very basic detention order legally flawed and faulty and, thus, quashed the detention of the detinue-Yasir Fayaz Rah by virtue of a judgment dated 29th of December, 2021.

11. 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 detenue-Yasir Fayaz Rah.

12. 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 (Crl) No. 256/2021 and HCP No. 12/2025.

13. 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.

14. Resultantly, the preventive detention order No. 07/DMK/PSA/2024 dated 29th of March, 2024 passed by the respondent No.2-District Magistrate, Kulgam read with consequent approval/confirmation/extension order(s) passed by the Home Department, Government of Union Territory of

Jammu & Kashmir with respect to the petitioner are hereby set aside.

15. The petitioner is directed to be restored, without loss of any further time, to his personal liberty by his immediate release from the concerned Jail and to that effect the Superintendent of the concerned Jail detaining the petitioner to act in compliance of the directions hereby being issued with respect to the release of the petitioner from preventive detention custody.

16. **Disposed of.**

(Rahul Bharti)
Judge

SRINAGAR
June 4th, 2025
"TAHIR"

i. Whether the Judgment is approved for reporting? Yes/ No.