

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

HCP No. 241/2024

Dated: 2nd of April, 2025.

Touseef Nabi Ganie.

... Petitioner(s)

Through: -

Mr N. H. Shah, Senior Advocate with
Ms Suwaiba, Advocate.

V/s

Union Territory of J&K and Ors.

... Respondent(s)

Through: -

Mr Mohsin-ul-Showkat Qadri, Sr. AAG with
Ms Nadiya Abdullah, Assisting Counsel.

CORAM:

Hon'ble Mr Justice Rahul Bharti, Judge

(JUDGMENT)

01. Heard learned counsel for the parties.
02. Perused the pleadings and the record therewith.
03. The petitioner, acting through his father, is seeking quashment of preventive detention order No. DIVCOM-“K”/70/2024 dated 18th of April, 2024 passed by the respondent No.2-Divisional Commissioner, Kashmir in exercise of power under section (3) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PIT-NDPS) Act, 1988.

04. A case for seeking preventive detention of the petitioner was actually put forth by the Senior Superintendent of Police (SSP), Baramulla by a dossier No. Lgl/PIT-NDPS/2023/1431-34 dated 1st of June, 2023 addressed to the respondent No.2-Divisional Commissioner, Kashmir.

05. This dossier remained un-responded and unacted upon at the end of the respondent No.2-Divisional Commissioner, Kashmir for almost a full period of one year when by virtue of detention order No. DIVCOM-“K”/70/2024 dated 18th of April, 2024, the petitioner came to be subjected to preventive detention custody.

06. The detention order No. DIVCOM-“K”/70/2024 dated 18th of April, 2024 came to be passed on purported grounds of detention formulated by the respondent No.2-Divisional Commissioner, Kashmir in which the only highlighted incident relatable to the petitioner was mention of FIR No. 109/2023 under sections 8/21 Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 registered by the Police Station Baramulla involving the petitioner to be found with alleged contraband of 15 grams of *charas* and brown sugar.

07. The petitioner came to assail his preventive detention on a number of grounds as set out in paragraph No. 6 (a) to 6 (g).

08. In his grounds of challenge, the petitioner has asserted that by virtue of an order dated 21st of June, 2023 passed by the court of Sessions Judge, Baramulla he was granted bail in relation to FIR No. 109/2023 about which the Senior Superintendent of Police (SSP), Baramulla was very much aware and despite that the said fact was not fully briefed to the respondent No.2-Divisional Commissioner, Kashmir who also at his own end acted with all leisure in responding to the preventive detention request of the Senior Superintendent of Police (SSP), Baramulla with respect to the petitioner without full disclosure of facts and documents relevant to this matter which included bail order.

09. This court does not find even a whisper of reasoning in the counter affidavit submitted in the case from the end of the respondent No.2-Divisional Commissioner, Kashmir as to what constrained him not to act upon the dossier No. Lgl/PIT-NDPS/2023/1431-34 dated 1st of June, 2023 for almost a period of one year, just short of one and a half month, and this is where the abuse of the preventive detention jurisdiction at the end of the

respondent No.2-Divisional Commissioner, Kashmir came to set in with respect to the case of the petitioner thereby rendering the preventive detention of the petitioner illegal warranting its quashment.

10. Accordingly, the preventive detention order bearing No. DIVCOM-“K”/70/2024 dated 18th of April, 2024 passed by the respondent No.2-Divisional Commissioner, Kashmir read with consequent approval/ confirmation order is hereby quashed. The petitioner is directed to be restored to his personal liberty by release from the Jail by its concerned Superintendent.

11. **Disposed of.**

(Rahul Bharti)
Judge

SRINAGAR
April 2nd, 2025
“TAHIR”

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