

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

HCP No. 244/2024

Reserved On: 14th of March, 2025.
Pronounced On: 25th of March, 2025.

Ubair Hameed Bhat

... 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 Satinder Singh Kala, AAG.

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-Ubair Hameed Bhat, acting through his father namely Abdul Hameed, is intending to regain his most cherishable right of personal liberty which otherwise has been lost to him by virtue of preventive detention under the Prevention of

Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PIT NDPS) Act, 1988.

04. The petitioner's detention came into effect on 4th of May, 2024 and now is left only with a period short of one month to gain his liberty without intervention of the Court but the petitioner is investing his trust to earn the validation of his cause in seeking quashment of his preventive detention.

05. In terms of the antecedents of the petitioner, vide an FIR No. 26/2017, Police Station Aragam came to book the petitioner in the alleged commission of offences under sections 148/149/332/427 of the Ranbir Penal Code (RPC).

06. The petitioner again came to be booked in FIR No. 07/2023 dated 5th of March, 2023 registered by the Police Station Argam for alleged commission of offences punishable under sections 8/22 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

07. With these two criminal cases attending his past, the Senior Superintendent of Police (SSP), Bandipora came to generate a dossier with respect to the petitioner and forward it to respondent No.2-Divisional Commissioner, Kashmir vide

communication No. Lgl/PSA-43/2024/16407-13 dated 16th of April, 2024 thereby soliciting slapping of preventive detention against the petitioner alleging that petitioner is a part of a narcotic *mafia* whose activities are falling within the scope of mischief of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PIT NDPS) Act, 1988.

08. In response to this dossier so submitted, the respondent No.2-Divisional Commissioner, Kashmir came to formulate purported grounds of detention lending him subjective satisfaction to reckon the petitioner liable for preventive detention under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PIT NDPS) Act 1988 and that is how Order No. DIVCOM-“K”/110/2024 dated 1st of May, 2024 came to be passed directing preventive detention of the petitioner and his lodgment in Central Jail, Kote Bhalwal, Jammu.

09. The passing of detention order No. DIVCOM-“K”/110/2024 dated 1st of May, 2024 resulted in the detention of the petitioner taking place on 4th of May, 2024 and placing of the petitioner in the confines of the Central Jail, Kote Bhalwal, Jammu.

10. Loosing no time against his said preventive detention, the petitioner came to submit a written representation on 28th of May, 2024 addressed to the Home Department, Government of Union Territory of Jammu & Kashmir thereby seeking recalling of his preventive detention which has remained unresponded.

11. The petitioner's detention was referred to the Advisory Board for opinion which came to be tendered by the Advisory Board on file No. Home/PB-V/329/2024 dated 30th of May, 2024 holding that there was a sufficient cause for detention of the petitioner.

12. The Advisory Board's opinion, thus, paved way for passing of Government Order No. Home/PB-V/1280 of 2024 dated 12th of June, 2024 confirming the detention of the petitioner for a period of one year w.e.f. 4th of May, 2024 to 3rd of May, 2025 and that period is soon going to expire by the coming month of May, 2025.

13. The petitioner came forward with the institution of the present writ petition on 4th of July, 2024 which came to be admitted in terms of an order dated 8th of July, 2024 inviting counter affidavit from the respondents' end which never came to

be filed even when costs came to be imposed in terms of an order dated 13th of November, 2024 and despite that no counter affidavit came to be filed meaning thereby that the grounds of challenge put up by the petitioner in his writ petition against his preventive detention remained unrebutted thereby rendering the outcome of this writ petition just a matter of formality of quashing the preventive detention order No. DIVCOM-“K”/110/2024 dated 1st of May, 2024 read with Government Order No. Home/PB-V/1280 of 2024 dated 12th of June, 2024.

14. Accordingly, the preventive detention order No. DIVCOM-“K”/110/2024 dated 1st of May, 2024 read with Government Order No. Home/PB-V/1280 of 2024 dated 12th of June, 2024 are hereby quashed. The petitioner is directed to be restored to his personal liberty by release from the concerned Jail by its Superintendent.

15. **Disposed of.**

(Rahul Bharti)
Judge

SRINAGAR

March 25th, 2025

“TAHIR”

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