

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

**HCP No. 288/2024**

Reserved On: 3<sup>rd</sup> of April, 2025.  
Pronounced On: 4<sup>th</sup> of June, 2025.

**Tufail Ahmad Bhat @ Khalid**

**... Petitioner(s)**

**Through: -**

Mr Abid Malla, 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-Tufail Ahmad Bhat @ Khalid, acting through his father-Mohammad Niyaz Bhat, filed this writ petition on 14<sup>th</sup> of August, 2024 for the sake of seeking quashment of impugned Order No. DMS/PSA/11/2024 dated 22<sup>nd</sup> of April, 2024 passed

by the respondent No.2-District Magistrate, Srinagar purportedly acting under the Jammu & Kashmir Public Safety Act, 1978.

04. As recited in the very opening of the impugned detention order, the respondent No.2-District Magistrate, Srinagar was served with a dossier by the Senior Superintendent of Police (SSP), Srinagar accompanying his communication No. LGL/Det-PSA/2024/7336-39 dated 20.04.2023 thereby putting up a case for seeking preventive detention of the petitioner which led to the respondent No.2-District Magistrate, Srinagar to formulate grounds of detention by making purported reference to the involvement of the petitioner in criminal case bearing FIR No. 215/2018 registered by the Police Station, Batmaloo for commission of offences under section 7/27 Indian Arms Act read with Section 34 of the Ranbir Penal Code (RPC) and criminal case FIR No. 38/2023 registered by the Police Station, Nowhatta for commission of offences under section 13 of the Unlawful Activities (Prevention) Act read with sections 120-B and 505-B of the Indian Penal Code

(IPC) and also the purported proceedings under sections 107/151 of the Code of Criminal Procedure Code (Cr. P. C.).

05. The petitioner came to be taken into preventive detention custody on 8<sup>th</sup> of June, 2024 and lodged in Central Jail, Srinagar ever since then he is behind bars.

06. The preventive detention of the petitioner is *ex-facie* bad in the face of the fact that the respondent No.2-District Magistrate, Srinagar was served with a dossier by the Senior Superintendent of Police (SSP), Srinagar vide letter No. LGL/Det-PSA/2024/7336-39 dated 20.04.2023 as itself recited in the impugned order and that it took more than one year for the respondent No.2-District Magistrate, Srinagar to spare time for taking up the file and issuing order for preventive detention of the petitioner is a fact which is self destructive of the exercise of jurisdiction in the case.

07. The respondent No.2-District Magistrate, Srinagar cannot be heard to say that reference in his

impugned order No. DMS/PSA/11/2024 dated 22<sup>nd</sup> of April, 2024 to the said communication of the Senior Superintendent of Police (SSP), Srinagar dated 20.04.2023 is a typing mistake or error. If it would have been so, then in the counter affidavit filed to the writ petition there surely would have been a reference to some corrigendum issued to make amend with respect to the reference to said communication of the Senior Superintendent of Police (SSP), Srinagar in terms whereof the dossier came to be served. The intervening gap between the date of placing of dossier and passing of detention order is fatal to the impugned preventive detention of the petitioner.

08. In this regard, this Court refers to para 14 of the judgment of the Hon'ble Supreme Court of India in the case of '**Sushanta Kumar Banik v. The State of Tripura**', reported as '**2022 AIR SC 4715**'.

09. Therefore, in the light of the aforesaid facts and circumstances of the case, the preventive detention of the petitioner is hereby held to be illegal, as such, required to be set aside.

10. Resultantly, the preventive detention order No. DMS/PSA/11/2024 dated 22<sup>nd</sup> of April, 2024 passed by respondent No.2-District Magistrate, Srinagar read with consequent approval/confirmation/extension order(s) whatsoever passed by the Home Department, Government of Union Territory of Jammu & Kashmir with respect to the petitioner are hereby set aside.

11. 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.

12. **Disposed** of.

**(Rahul Bharti)**  
**Judge**

**SRINAGAR**  
June 4<sup>th</sup>, 2025  
"TAHIR"

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