

Regular List
Serial No. 08

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH
AT JAMMU**

HCP No. 13/2026

Date of pronouncement : 04.06.2026
Uploaded on : 12.06.2026

Radhik Katoch Petitioner

Through:- Mr. Siddhant Abrol, Advocate

V/s

UT of J&K & Ors. Respondents

Through:- Mrs. Monika Kohli, Sr. AAG

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT (ORAL)**

1. Heard learned counsel for the petitioner as well as Mrs. Monika Kohli, learned Sr. AAG for the respondents.
2. The petitioner is in state of preventive detention custody imposed under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act, 1988 by virtue of Order **No. PITNDPS 75 of 2025** dated **29.12.2025** passed by the respondent No.2- Divisional Commissioner, Jammu.
3. The petitioner, acting through his father, has come forward with present writ petition filed on **17.02.2026** thereby seeking quashment of preventive detention custody and release

of his person from the confinement of the District Jail, Bhaderwah.

4. The alleged antecedents of the petitioner, on the basis whereof the petitioner came to be ordered to be detained under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act, 1988, came to be documented by the respondent No. 3- Senior Superintendent of Police (SSP), Doda who, vide his letter **No. Conf/Clt/2025/31887/C** dated **22.12.2025**, submitted a dossier to the respondent No.2- Divisional Commissioner, Jammu thereby seeking preventive detention of the petitioner alleging that the petitioner's state of activities are falling within the mischief of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act, 1988 and, therefore, be subjected to preventive detention custody.

5. In his dossier, the respondent No. 3- Senior Superintendent of Police, Doda came to refer the petitioner's criminal antecedents by his involvement in **FIR No. 13/2020** under sections 8/20/NDPS Act of Police Station, Assar and **FIR No. 46/2025** under sections 8/21/22/NDPS Act of Police Station, Doda. In both said FIRs, the petitioner was reported to be bailed out.

6. In the dossier, the petitioner is referred to be a desperate character and a habitual drug peddler who by his involvement in the criminal cases under sections **8/20/21/22** of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, increased menace of smuggling of Narcotic Drugs and

Psychotropic Substances in the society. In addition to the involvement of the petitioner by reference to aforesaid two FIRs, Daily Diary Report (DDR) **No. 15** dated **04.11.2025** of Police Station Doda came to be cited in the dossier as to the fact that the petitioner along with one Imtiaz Ahmed are involved in the illegal trade of narcotic substances and trapping the youth of the area under Police Station Doda's jurisdiction.

7. There is a reference of the fact that the petitioner had applied for bail by reference to **FIR No. 13/2020** of Police Station, Assar before the Court of Additional District & Sessions Judge (Special Judge under NDPS Act), Doda, which by virtue of an order dated **15.06.2020** had admitted the petitioner to regular bail after the petitioner having suffered arrest on **18.05.2020**. The bail order dated **15.06.2020** remained unchallenged.

8. With respect to **FIR No. 46/2025** of Police Station, Doda in which the petitioner had come to be arrested with effect from **21.02.2025**, he came to be admitted to bail on **27.02.2025**.

9. In both aforesaid FIRs, the criminal challans are pending trial before the competent criminal court of law.

10. On the basis of the material so laid out by the respondent No. 3- Senior Superintendent of Police, Doda, the respondent No. 2- Divisional Commissioner, Jammu came to draw purported subjective satisfaction drawn from the grounds of detention formulated to hold that the petitioner's reported state of activities made out a case of passing of detention order

against him and which accordingly came to be so passed vide Order **No. PITNDPS 75 of 2025** dated **29.12.2025**.

11. The respondent No. 2- Divisional Commissioner, Jammu also addressed a communication to the petitioner so as to apprise him about the fact of passing of detention order against him.

12. By virtue of a communication **No. 601/RA /Detention/487/CC-7823901** dated **29.12.2025**, the respondent No. 2- Divisional Commissioner, Jammu apprised the Principal Secretary to Government, Home Department, J&K about the fate of passing of detention order against the petitioner.

13. The execution of detention order came to be carried out by **PSI Dalbir Singh, PID No. EXJ-196646** of Police Station, Doda who took the petitioner into custody on **30.12.2025** and at the time of his said arrest, is said to have handed over to the petitioner a compilation of 123 leaves inclusive of notice of detention order and the entire material/relevant documents pertaining to the detention of the detainee. The petitioner is said to have been explained the entire set of 123 documents in a language understood by the petitioner and informed about his right to make a representation to the Government as well as to the respondent No. 2- Divisional Commissioner, Jammu.

14. The Home Department, Government of UT of J&K by virtue of a letter **No. Home/PB-V-563-2025 {7715510}** dated **01.01.2026** apprised the Joint Secretary, (PITNDPS Division),

Department of Revenue, Ministry of Finance Government of India about the fact of petitioner's preventive detention having been ordered.

15. The petitioner came to be handed over to the Superintendent, District Jail, Bhaderwah whereat the petitioner is in state of detention.

16. The petitioner's detention came to be referred to the Advisory Board for its opinion which came to be tendered on file **No. Home/PB-V/563/2025** dated **15.01.2026**. As per the Advisory Board's Opinion report, there was a justifiable cause for subjecting the petitioner to preventive detention custody. At the time of furnishing of its opinion report, there was no representation from the end of the petitioner against his detention put up before the Advisory Board.

17. In its opinion report, the Advisory Board has not adverted to the fact of grant of bail in favour of the petitioner by reference to the two **FIRs No. 13/2020 & 46/2025** which otherwise have been cited very heavily by the Advisory Board.

18. The very fact that the Advisory Board is found to be missing a reference to the fact of grant of bail in favour of the petitioner by reference to said two FIRs is a pointer to the fact that the Advisory Board was not given complete material in connection with the petitioner's preventive detention order.

19. So much so, in its opinion report, the Advisory Board has not adverted to any aspect of Police Case going on by reference to said two FIRs in a court of law.

20. Based on said fractural opinion report, the petitioner's detention came to be confirmed with issuance of Government Order **No. Home/PB-V/79 of 2026** dated **20.01.2026** directing the petitioner's detention to last for full **one year** with effect from **30.12.2025** to **29.12.2026** and place of lodgment to be District Jail, Bhaderwah.

21. The petitioner, acting through his father, came forward with a written representation addressed to the respondent No. 2- Divisional Commissioner, Jammu sent through speed post.

22. The petitioner's representation came to be processed by the Home Department, Government of UT of J&K which came to be rejected by virtue of order **No. 601/RA /PITNDPSREP/CC-7823901** dated **21.02.2026** from the end of the respondent No. 2- Divisional Commissioner, Jammu.

23. On the other hand, the rejection of the petitioner's representation addressed to the Government came to take place and communicated to the respondent No. 2- Divisional Commissioner, Jammu by virtue of a communication **No. Home /PB-V/563/2025/7715510** dated **02.03.2026**.

24. From the end of office of the respondent No. 2- Divisional Commissioner, Jammu, the respondent No. 3- Senior Superintendent of Police (SSP), Doda came to be apprised by virtue of a communication **No. 601/RA/CC-7823901** dated **03.03.2026** about the fate of disposal of the petitioner's representation by the Government so as to apprise the petitioner about the fate of his rejected representation meaning

thereby it was about one month's delay that the respondent No.

2- Divisional Commissioner, Jammu was meaning to apprise the petitioner about the dismissal of his representation by the Government which otherwise had taken place on **02.03.2026**.

25. The timing of filing of writ petition is **17.02.2026**.

26. The petitioner came to be apprised about rejection of his representation on **03.03.2026** against a written receipt.

27. The petitioner, in his writ petition has assailed his detention on the basis of grounds as set out in para 8 (a) to (i).

28. The petitioner has made a vehement reliance on the fact that his detention is passed upon his involvement in two criminal cases, in both of which he was admitted to bail and there was no act of breach of any terms and conditions of said bail orders.

29. At the time of institution of writ petition, the petitioner was assailing that his representation was pending consideration without its fate being known to him. The petitioner has also alleged that there is no justifiable basis for his detention as the alleged incidents relatable to two FIRs were bearing no proximate link with the situation for seeking preventive detention of the petitioner.

30. In response to writ petition, the respondent No. 2- Divisional Commissioner, Jammu has come forward defending the preventive detention of the petitioner on the basis of the grounds of detention by saying that the petitioner deserves to be subjected to preventive detention.

31. In his counter-affidavit, the respondent No. 2- Divisional Commissioner, Jammu has relied upon the judgments in the case of “**Haradhan Saha Vs State of West Bengal (1975) 3 SCC**”, judgment of Division Bench of this Court in **LPA No. 55/2023** titled “**Anil Sharma Vs UT of J&K & Ors.**” and **LPA No. 12/2023** titled “**Jahangir Ahmad Dar Vs UT of J&K & Ors.**”.

32. After having heard learned counsel for both sides and perused the detention record, this Court finds a serious flaw attending the preventive detention of the petitioner.

33. The first major flaw is in the very preventive detention order of the respondent No. 2- Divisional Commissioner, Jammu in which the respondent No. 2 is making a reference to District Screening Committee having examined the case of the petitioner for his preventive detention and recommended the case vide **ASPD/25/3992** dated **20.12.2025** but on the other hand the respondent No. 3- Senior Superintendent of Police, Doda nowhere making any such reference in his dossier with respect to such District Screening Committee’s Report.

34. Although in his communication **No. Conf/Clt /2025/31887/C** dated **22.12.2025**, the respondent No. 3- Senior Superintendent of Police (SSP), Doda addressed to the respondent No. 2- Divisional Commissioner, Jammu is referring to 114 leaves accompanying the communication which includes dossier as well as a recommendation of the District Screening Committee but leaving the petitioner clueless to know as to when the case was first submitted against him before the so

called District Screening Committee of District Doda, constituted vide **No. CC/Order/2024/36141-47/C** dated **30.10.2024**. There is no reference on the record found that who submitted the case or examination before the District Screening Committee relating to the petitioner's preventive detention.

35. Another flaw attending the petitioner's preventive detention is that the Advisory Board in its opinion is found to be without notice of the fact as to whether the petitioner was admitted to bail or not meaning thereby the Advisory Board was not fully apprised of all the facts and circumstances related to the preventive detention of the petitioner.

36. Last flaw attending the petitioner's continuing preventive detention is the delay on the part of the respondent No. 2- Divisional Commissioner, Jammu in apprising the petitioner about the fate of his representation having suffered rejection from the end of the Government of UT of J&K.

37. The petitioner's representation addressed to the Government came to suffer rejection on **02.03.2026** and that is how the Home Department, Government of UT of J&K was addressed a communication to said effect to the respondent No. 2- Divisional Commissioner, Jammu but it was taking more than one month for the respondent No. 2- Divisional Commissioner, Jammu to find time to apprise the petitioner about the fate of his representation which is a wasteful consumption of time with least respect to the fundamental right of a detainee, with a delay of one month taking place without any explanation attending thereto and that one month meant

spending one month of detention period out of 12 months period with effect from **30.12.2025** without knowing the fate of his representation.

38. Cumulative effect of aforesaid flaws is that the petitioner's preventive detention is found to be rendered illegal and liable to be quashed.

39. Accordingly, the preventive detention order **No. PITNDPS 75 of 2025** dated **29.12.2025** read with confirmation Order **No. Home/PB-V/79 of 2026** dated **20.01.2026** are hereby quashed.

40. The petitioner is directed to be released to his personal liberty forthwith by his release from District Jail, Bhaderwah by the Superintendent, District Jail, Bhaderwah.

41. ***Disposed of.***



(RAHUL BHARTI)
JUDGE

JAMMU
04.06.2026
Sneha

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No