

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

HCP No. 128/2025

**Tawfeeq Ahmad Khan, Aged 35 years
S/o Mohd. Ayoub Khan
R/o Shangulipora Noorbagh, Srinagar
District Srinagar**

.....Petitioner

Through: Mr. Sajad Ashraf, Advocate

Vs

- 1. UT of J&K through Additional Chief Secretary, Home Department, J&K Govt. Civil Secretariat, Srinagar/ Jammu.**
- 2. Divisional Commissioner, Kashmir.**
- 3. Sr. Superintendent of Police, Srinagar.**

..... Respondents

Through: Mr. Jahangir Dar, GA

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGEMENT
(01.04.2026)

01. Heard learned counsel for both sides.

02. Perused the writ petition and the annexures therewith and also the counter affidavit filed in response.

03. By virtue of an **Order No. DIVCOM-"K"/80/2025** dated **03.05.2025**, the respondent No. 2 – Divisional Commissioner, Kashmir came to subject the petitioner to preventive detention custody on account of alleged reported activities of the petitioner falling within the scope of mischief

of section 3 of the Prevention of Illicit Traffic in Narcotic Drugs & Psychotropic Substances Act, 1988 (in short “**PIT NDPS Act, 1988**”) which resulted in the petitioner getting detained to serve one year detention period upon approval of the said detention order taking place from the end of the Govt. in terms of **Govt. Order No. Home/PB-V/1218 of 2025** dated **12.06.2025**.

04. The petitioner had come to be detained on **05.05.2025**.

05. The grounds of detention in support of the impugned detention order refer the petitioner’s involvement in **FIR No. 128/2022** under section 8/21 of NDPS Act, 1985 of the Police Station Safakadal and on that solitary antecedent basis the petitioner has been reckoned to be a member of larger drug mafia without any factual reference worth name as to wherefrom the petitioner was so read to be a member of an active drug mafia.

06. It is, thus, very evident that in the name of preventive detention, the petitioner has been delivered a punitive punishment for his alleged involvement in **FIR No. 128/2022** for which he is undergoing trial. So much so, the

respondent No. 2 – Divisional Commissioner, Kashmir was not apprised of the fact about the actual status of the trial of criminal case relatable to **FIR No. 128/2022** and, therefore, whatever was submitted to the respondent No. 2 – Divisional Commissioner, Kashmir from the end of the Sr. Superintendent of Police (SSP), Srinagar relatable to the petitioner was not full picture of facts to warrant exercise of jurisdiction under PIT NDPS Act, 1988.

07. Accordingly, this Court holds the detention **Order No. DIVCOM-“K”/80/2025** dated **03.05.2025** read with **Govt. Order No. Home/PB-V/1218 of 2025** dated **12.06.2025** as illegal and hereby quashed.

08. The petitioner is directed to be restored to his personal liberty by his immediate release from the concerned jail by the superintendent concerned.

09. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

SRINAGAR
01.04.2026
Opinder

Whether the judgment is speaking :	Yes / No
Whether the judgment is reportable :	Yes / No