

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

HCP 293/2025.

ARBAZ AHMAD MIR TH HIS GRAND MOTHER MST ZAREEFA.

**...Petitioner(s)**

Through: Mr. Aasif Nabi, Advocate.  
Mr. Syed Ashiq Hussain, Advocate.

**VERSUS**

UNION TERRITORY OF J AND K AND ORS.

**...Respondent(s)**

Through: Mr. Faheem Nisar Shah, GA.  
Ms Maha Majeed, Assisting Counsel vice  
Mr. Mohsin S Qadri, Senior AAG.

**CORAM:**

**HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.**

**ORDER**  
**11.02.2026**

01. The petitioner, acting through his 80-years old grandmother- Mst. Zareefa, who has approached this Court by way of present writ petition filed on **10.09.2025** thereby seeking quashment of preventive detention order **No. DIVCOM-“K”/146/2025** dated **07.08.2025** passed by the respondent No. 2- Divisional Commissioner, Kashmir in exercise of powers under Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (PITNDPS), 1988 thereby directing the detention of the petitioner and his confinement in the Central Jail, Kot Bhalwal, Jammu for the purpose of preventing him from indulging in activities falling within the mischief of Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (PITNDPS), 1988.

02. Pursuant to detention order **No. DIVCOM-“K”/146/2025** dated **07.08.2025**, the petitioner came to be detained and taken into custody on **11.08.2025** from which date onwards one-year period of the petitioner's detention commenced. By that reference, the petitioner has now served almost six months in preventive detention custody.

03. The detention of the petitioner came to take place in the backdrop of the fact that in his childhood, the petitioner's father, who was in the Indian Army, is said to have lost his life at the hands of militants. Thereafter, the petitioner's mother abandoned him and remarried, leaving him only under the care and custody of his grandparents, who brought him up and ensured that he was imparted education up to 9<sup>th</sup> Class from Government High School, Furreh.

04. In his writ petition, the petitioner has assailed his detention on the grounds as set out in para 8 (i) to (xviii).

05. Before the institution of the writ petition, the petitioner, acting through his grandmother, had submitted a written representation dated **15.08.2025** addressed to the respondent No. 2- Divisional Commissioner, Kashmir which is said to have been received by the respondent No. 2- Divisional Commissioner, Kashmir.

06. There is no denial to the fact that the representation was duly received by the respondent No. 2- Divisional Commissioner, Kashmir as otherwise, said representation would not have been forwarded from the end of the respondent No. 2-Divisional

Commissioner, Kashmir to the Home Department, Government of UT of Jammu and Kashmir nor would the disposal of the representation have taken place at the end of the respondent No. 2- Divisional Commissioner, Kashmir on **26.09.2025**.

07. The respondent No. 2-Divisional Commissioner Kashmir in his representation disposal order dated **26.09.2025** does not spell out the date on which he received at his end the representation of the petitioner submitted through his grandmother for consideration. That date of receipt of representation is relevant to determine as to whether the consideration and consequent disposal of the representation made by a detenu against his/her detention has taken place without any unwarranted delay or not, particularly when the petitioner's representation is dated **15.08.2025**, with its disposal taking place on **26.09.2025** and the petitioner being informed about the fate of his representation on **10.11.2025**.

08. The time lag between these two events i.e. the date of consideration of the representation and the date of communication of its disposal to the petitioner is over-stretched and defeats the very purpose for which the constitutional right of making a representation is exercised by a detenu. By delayed consideration of a representation and delayed communication of the representation's outcome takes place, a detenu continues to be in state of custody at the cost of his/her most cherished fundamental right to personal liberty. It is in this context that the element of urgency and exigency is read into the requirement of expeditious

consideration of a representation and its prompt communication to the detainee which is an in built constitutional safeguard in the jurisprudence of preventive detention custody in the context of Article 22 of the Constitution of India.

09. In the light of the aforesaid serious legal lacuna affecting the detention of the petitioner in the context of treatment of his representation, this Court is inclined to intervene and quash the detention order **No. DIVCOM-“K”/146/2025** dated **07.08.2025** along with consequent confirmation/approval order and directs restoration of personal liberty of the petitioner forthwith, unless he is required in connection with any other case. The Superintendent concerned Jail to release the petitioner from his preventive custody.

10. *Disposed of.*

(RAHUL BHARTI)  
JUDGE

**SRINAGAR**  
**11.02.2026**  
*Bisma Jan.*

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No