

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

Reserved on : 12.03.2026.

Pronounced on : 31.03.2026.

HCP No. 315/2025

**Mohammad Yousuf Teeli, Aged 38,
W/o Gull Mohammad Teeli,
R/o Khiram, Tehsil Srigufwara, Anantnag,
Through his Brother namely Mudsar Ahmad Teeli**

.....Petitioner

Through: Mr. Parvaiz Amin Wani, Advocate

Vs

- 1. UT of Jammu and Kashmir through Principal Secretary,
Home Department, Civil Sectt. Srinagar. 190009.**
- 2. Divisional Commissioner, Kashmir,
Shaheed Gunj. 190001.**
- 3. Senior Superintendent of Police, Anantnag. 192101.**
- 4. Superintendent District Jail, Poonch. 185101.**

..... Respondents

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

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGEMENT**

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. The detention record produced also scanned thoroughly.

04. The institution of this writ petition came to take place on **27.10.2025** by the petitioner-Mohammad Yousuf Teeli acting through his brother Mudsar Ahmad Teeli coming forward to earn a writ of habeas corpus from this Court for the purpose of seeking restoration of his personal liberty otherwise lost to preventive detention custody effected and inflicted under the Prevention of Illicit Traffic in Narcotic Drugs & Psychotropic Substances Act, 1988 (in short **“PIT NDPS Act, 1988”**).

05. The respondent No. 3 – Sr. Superintendent of Police (SSP), Anantnag approached the respondent No. 2 – Divisional Commissioner, Kashmir with a dossier accompanying letter **No. CS/71/2025/17737-42** dated **16.09.2025** through the medium of which the alleged state of activities of the petitioner falling within the scope of mischief of PIT NDPS Act, 1988 were reported and the petitioner’s preventive detention was solicited so as to deter him from continuing with his alleged state of activities.

06. In his dossier, the respondent No. 3 – Sr. Superintendent of Police (SSP), Anantnag referred the petitioner a 5th class drop out and thereafter engaging himself in domestic work/farming and in the course of time getting

indulged in illegal activities of drug trade with sale and purchase of narcotic drugs and psychotropic substances among the Youth. The adverse antecedents of the petitioner in this respect were drawn out from **FIR No. 40/2025** registered by the Police Station Srigufwara under sections 8/15 of the NDPS Act, 1985.

07. It is only that sole FIR and the criminal case borne out of that the petitioner was reckoned to be a case to be booked under PIT NDPS Act, 1988.

08. The dossier refers to the fact that the petitioner is on bail in connection with said criminal case in which connection cancellation of bail is being contemplated by the District Police but, nevertheless, as per continuous field reports, the petitioner is alleged to have indulged in similar activities (drug peddling) in the area, therefore, making a case for seeking his preventive detention.

09. Acting upon said dossier, the respondent No. 2 – Divisional Commissioner, Kashmir came up with **“Grounds of Dossier”** and on basis thereof passed the preventive detention **Order No. DIVCOM-“K”/156/2025** dated **03.10.2025** thereby directing imposition of preventive detention upon the petitioner and his confinement in the

District Jail, Poonch for a period to be specified by the Govt./Advisory Board.

10. The issuance of detention order resulted in issuance of a warrant of arrest which came to be executed by PSI Danyal Ahmad Anwar, PID No. GEC-246880 of the Police Station Srigufwara on **07.10.2025** who handed over the person of the petitioner to the Superintendent District Jail, Poonch.

11. The petitioner is said to have been explained 41 leaves compilation related to the detention order making him understand that the petitioner has a right to make a representation to the Govt. as well as the detaining authority against his detention order.

12. It is in this state of preventive detention custody that the petitioner had come forward with the institution of the present writ petition, after expiry of period of 20 days of detention custody, on **27.10.2025** before this Court challenging his detention on the basis of the grounds as set out in para 6.

13. By virtue of a written representation dated **17.10.2025** addressed to the respondent No. 2 – Divisional

Commissioner, Kashmir and submitted against receipt **No. E-7483203** dated **18.10.2025**, the petitioner solicited revocation of his detention order.

14. In the grounds of challenge set out in para 6, the petitioner has come forth stating that exercise of jurisdiction under PIT NDPS Act, 1988 against him is bad and arbitrary without application of mind on the part of the respondent No. 2 – Divisional Commissioner, Kashmir particularly when only on basis of a singular criminal case against the petitioner sourced to **FIR No. 40/2025**, the petitioner has been read and reckoned as a drug peddler for curtailing his personal liberty through preventive detention jurisdiction. The petitioner submits that he was bailed out and still no regard was paid to said fact by the District Police as well as by the respondent No. 2 – Divisional Commissioner, Kashmir.

15. Infact, it is pleaded that the respondent No. 3 – Sr. Superintendent of Police (SSP), Anantnag acted as being judge of the state of ordinary criminal law in the UT of J&K reckoning it as a failure insofar as dealing with the petitioner is concerned. It is submitted that criminal case in which the petitioner came to be implicated and is undergoing trial is relatable to an intermediate quantity of contraband and the

petitioner came to be bailed out by the criminal court upon due consideration of the facts and circumstances of the case. In this regard, the petitioner refers to bail order dated **24.07.2025** passed by the court of Special Judge (designed under NDPS Act), Anantnag. The petitioner came to be arrested on **14.06.2025** in said **FIR No. 40/2025** dated **05.06.2025** whereupon he applied for grant of bail on **16.02.2025** and came to be bailed out on **24.07.2025** though for interim period till **18.08.2025** which was further extended, but in the meantime, the respondent No. 3 – Sr. Superintendent of Police (SSP), Anantnag came to intervene with his dossier against the petitioner and got the petitioner into detention custody through detention **Order No. DIVCOM-“K”/156/2025** dated **03.10.2025** passed by the respondent No. 2 – Divisional Commissioner, Kashmir.

16. In the counter affidavit submitted on behalf of the respondent No. 2 – Divisional Commissioner, Kashmir, the exercise of preventive detention jurisdiction is being justified on the ground that the activities of the petitioner were of such nature that no other legal option was available expect to subject him to preventive detention custody.

17. The counter affidavit from the respondents' end came to be filed on **18.02.2026**.

18. In the counter affidavit, it is being submitted that the detention order came to be confirmed by the Govt. in terms of **Govt. Order No. Home/PB-V/2056 of 2025** dated **06.11.2025** thereby ordering detention of the petitioner to last for a period of one year and before that the Advisory Board's opinion was duly solicited which came to be submitted on **27.10.2025** holding the detention of the petitioner on sufficient cause.

19. The respondent No. 2 – Divisional Commissioner, Kashmir is said to have disposed of representation of the petitioner on **10.11.2025**.

20. From the end of the Govt. acting through its Home Department, the petitioner's representation came to be disposed of on **29.12.2025** by virtue of a communication **No.Home/PB-V/519/2025/(7688870)** dated **29.12.2025**.

21. When this Court examines the facts and circumstances of the case as borne out from the record, this Court finds that the preventive detention of the petitioner fails and falters on two patent grounds one of which, surely,

even missed the reading of the Advisory Board and that is there are no grounds of detention formulated by the respondent No. 2 – Divisional Commissioner, Kashmir for drawing subjective satisfaction therefrom to support the impugned detention **Order No. DIVCOM-“K”/156/2025** dated **03.10.2025**.

22. Instead of grounds of detention, the respondent No. 2 – Divisional Commissioner, Kashmir has reproduced the **“Grounds of Dossier”** and that obviously relates to the mind of the respondent No. 3 – Sr. Superintendent of Police (SSP), Anantnag. The petitioner is, thus, right in saying in his averment that the respondent No. 3 – Sr. Superintendent of Police (SSP), Anantnag has taken for granted the respondent No. 2 – Divisional Commissioner, Kashmir as a post-office in passing the detention order against the petitioner.

23. The preventive detention jurisdiction, be it under the Jammu & Kashmir Public Safety Act, 1978 or PIT NDPS Act, 1988, is a jurisdiction of meticulous care and compliances for the simple reason that a personal liberty of a free citizen of India is meant to be curtailed not on any criminal accusation but on sheer suspicion basis and for that purpose there is no scope whatsoever for any mis-step or goof

up at the end of the sponsoring as well as detention order making authority which in the present case are the Sr. Superintendent of Police (SSP), Anantnag and the Divisional Commissioner, Kashmir.

24. A detainee is not supposed to prove his innocence against the preventive detention jurisdiction exercised or being exercised against him because he has nothing charged against him with a factual content whereas what is pitted against him is a suspicion drawn by subjective satisfaction and, thus, the onus is on the detention order making authority that jurisdiction is exercised with due diligence and attention.

25. The other ground which fails the detention order against the petitioner is that in the counter affidavit submitted on **18.02.2026** there is no whisper of reference as to whether the petitioner was ever apprised of the fate of his representation which came to be disposed of at the end of the respondent No. 2 – Divisional Commissioner, Kashmir as well as of the Govt. There is a clear-cut omission of pleading to the said effect which lends credence to the argument of the learned counsel for the petitioner that the petitioner was not apprised of the fate of his representation.

26. In view of the aforesaid, the preventive detention of the petitioner is held to be illegal and, accordingly, detention **Order No. DIVCOM-“K”/156/2025** dated **03.10.2025** passed by the respondent No. 2 – Divisional Commissioner, Kashmir read with **Govt. Order No. Home/PB-V/2056 of 2025** dated **06.11.2025** are hereby quashed.

27. The petitioner is directed to be restored to his personal liberty by his release from the concerned jail wherever the petitioner is being kept confined. The Superintendent of the concerned jail to abide by the present direction of this Court by releasing the petitioner forthwith.

28. ***Disposed of.***

29. Detention record to be returned back to the learned counsel for the respondents.

(RAHUL BHARTI)
JUDGE

SRINAGAR
31.03.2026
Opinder

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