

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

**HCP No.340/2025
CM No. 85/2026**

Waseem Ahmad Mir

.....Petitioner

Through: Mr. Shafqat Nazir, Senior Advocate with
Ms. Sabreena Bashir Advocate.

Vs

**Union Territory of J&K
And Ors.**

..... Respondents

Through: Mohsin Qadri, Senior AAG with
Ms. Mahamajeed Advocate.

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(29.06.2026)**

01. Heard Mr. Shafqat Nazir Advocate assisted by Ms. Sabreena Bashir Advocate for the petitioner and also heard Mr. Mohsin Qadri learned Senior AAG assisted by Ms. Maha Majeed Assisting Counsel, for the respondents.

02. The petitioner Waseem Ahmad Mir, acting through his wife Mst. Mahpara Akhter, came forward with present writ petition filed on **31.12.2025** thereby seeking quashment of his preventive detention custody which came to take place by issuance of a detention order **No. DIVCOM "K"/152/2025** dated **26.09.2025** passed by the respondent No.2- Divisional Commissioner Kashmir, in terms whereof the petitioner was

directed to be detained and kept in preventive detention custody for a period of one year with effect from effecting of his arrest which came to take place on **30.09.2025**.

03. The Senior Superintendent of Police (SSP), Sopore, had prepared a dossier and forwarded it vide his letter **No. PROS/PIT-NDPS/2025/42888-90** dated **27.08.2025** to the respondent No.2- Divisional Commissioner Kashmir, thereby purportedly reporting the alleged state of activity/ies of the petitioner warranting his preventive detention under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances, (PITNDPS) Act 1988.

04. Acting on the basis of said dossier, the respondent No.2- Divisional Commissioner Kashmir, formulated purported grounds of detention to draw a subjective satisfaction therefrom that the petitioner deserves to be subjected to preventive detention custody on account of his alleged activities falling within the scope of mischief of section 3 of PITNDPS Act 1988.

05. In his grounds of detention, the respondent No.2- Divisional Commissioner Kashmir refers the criminal antecedents of the petitioner in the context of his involvement in **FIR No.42/2015** of Police Station Sopore, **FIR No.191/2024** of Police Station Banihal, and the last **FIR No.86/2025** of Police Station Sopore. In all the three criminal cases, the alleged commission of

offences on the part of the petitioner is said to be under Narcotic Drugs and Psychotropic Substances, (NDPS) Act 1985.

06. In the grounds of detention, the respondent No.2-Divisional Commissioner Kashmir, refers to the fact that petitioner is on bail in all the three criminal cases but despite that he is still involved in a clandestine and discrete manner in objectionable activities which otherwise cannot be presented before the criminal court of law seized of trial of the criminal cases against the petitioner for enabling the Prosecution and the District Police to seek cancellation of the bail granted.

07. It is only by reference to so-called clandestine and discrete involvement of the petitioner that the premise of subjecting the petitioner to preventive detention came to be formulated.

08. The petitioner has challenged his preventive detention on the basis of the grounds set out in para 4(I) to (VIII).

09. The major thrust of challenge in the grounds of detention is that there is no live link, whatsoever, between grounds of detention and alleged activities of the petitioner for subjecting the petitioner to suffer preventive detention custody by loosing fundamental right to his personal liberty.

10. In the counter affidavit filed to the writ petition, the respondents in general and the respondent No.2 - Divisional

Commissioner Kashmir, in particular, are manning to defend the recourse to PITNDPS Act 1988 against the petitioner.

11. When this Court closely examines the facts of the case, the first thing which comes out vitiating the exercise of jurisdiction on the part of the respondent No.2- Divisional Commissioner Kashmir is that he took more than one month in responding to the dossier dated **27.08.2025** submitted by the Senior Superintendent of Police (SSP), Sopore. There is no reason/ explanation put forth from the end of the respondent No.2- Divisional Commissioner Kashmir, be it in his detention order **No. DIVCOM "K"/152/2025** dated **26.09.2025** or in the grounds of detention in support thereof or even in the counter affidavit as to why it did not bother respondent No.2- Divisional Commissioner Kashmir that he needed to act with promptness in curtailing personal liberty of a person who was otherwise reckoned by the District Police Sopore posing a recurring risk to the health and safety of youth of the area by reference to drug menace. This singular delay on the part of the respondent No.2- Divisional Commissioner Kashmir, constitutes good enough reason for this court to quash the preventive detention of the petitioner.

12. In addition, this Court is also inclined to grant restoration of liberty in favour of the petitioner on the basis of fact

that petitioner came to be bailed out by reference to last **FIR No.86/2025** by the Court of Special Judge, NDPS Baramulla in terms of an order dated **22.07.2025** meaning thereby during the course of his custody as an accused in connection with his booking under **FIR No. 86/2025** there could not have been any act of omission or commission on the part of the petitioner to qualify for suffering the hit of PITNDPS Act 1988. It is only pursuant to his release from custody in terms of bail order dated **22.07.2025** that the petitioner could have been said to have relapsed in objectionable activity but it is the Screening Committee of District Sopore which came up with a report against the petitioner for slapping preventive detention upon him and same came to be forwarded to the respondent No.2- Divisional Commissioner Kashmir by a communication **No. Pros/PIT-NDPS/205/42887** dated **27.08.2025** meaning thereby that within a period of one month the petitioner's alleged state of activity/ies became noticeable but then there is nothing in the name of credible information to said effect except a mundane report **No.DSB/PSA/Verf./025-95** dated **30.08.2025**.

13. If this Court allows such type of flirting references to constitute basis for subjecting a person to suffer preventive detention custody, then fundamental right to personal liberty is a

most weakest right to citizen of India to be lost at any given point of time and spur of moment.

14. Therefore, this Court is of confirmed view that preventive detention of the petitioner is nothing but punitive in intent and end which deserves to be quashed, and is, accordingly, quashed.

15. Preventive detention order **No. DIVCOM "K"/152/2025** of the respondent No.2- Divisional Commissioner Kashmir read with Government Order **No. Home/PB-V/1916/2025** dated **23.10.2025** are hereby quashed.

16. The petitioner is directed to be restored to his personal liberty by his release from Central Jail Jammu, Kotbalwal, to which effect Superintendent concerned to act in abidance.

17. Disposed of.

18. The record produced to be return back to Mr. Mohsin Qadri learned Senior AAG, counsel for the respondent.

(RAHUL BHARTI)
JUDGE

SRINAGAR
29.06.2026
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