Sr. No. 02

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

(Through Virtual Mode)

Reserved on: 07.05.2025
Pronounced on: 16.05.2025

LPA No. 81/2025
CM No's 2483 and 2484 of 2025

CJ Court

UT of J&K & Ors. …Applicant(s)/Appellant(s)

Through: Ms. Monika Kohli, Sr. AAG.

Vs.

Sumit Slathia ...Respondent(s)

Through:

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

O R D E R

Per Oswal J'

CM No. 2483/2025

For the reasons stated in the application, coupled with submissions made at Bar, the same is allowed and the delay of 86 days in filing the appeal is condoned.

CM is **disposed of.**

LPA No. 81/2025.

1. Respondent herein was detained in terms of order dated 8th May, 2024, issued by appellant No.2 under the Provisions of the Jammu and Kashmir Public Safety Act, 1978. (*for short "Act*"),

as his activities were found prejudicial to the maintenance of the public order.

2. The order of detention was issued by appellant No. 2 pursuant to the dossier submitted by appellant No. 3. The grounds of detention were framed by appellant No. 2, wherein he had placed reliance upon the following five FIRs:

    1. *FIR No. 38/2020 under Section 420/109 IPC of P/S Vijaypur.*
    2. *FIR No. 102/2023 under Section 451/323/504/506 IPC of P/S Vijaypur.*
    3. *FIR No. 14/2015 under Section 307/341/34 RPC 4/25 Arms Act of P/S Vijaypur.*
    4. *FIR No. 201/2014 under Section 341/323/147/148 RPC of P/S Samba.*
    5. *FIR No. 32/2017 under Section 341/323/34 RPC 4/25 Arms Act of P/S Vijaypur.*

3. The respondent being aggrieved of the same assailed the order of detention on the various grounds through the medium of HCP No. 90/2024. The appellants objected to the petition preferred by the respondent by contending that the detention of the petitioner was in accordance with law.

4. The learned writ Court vide its order dated 11th September, 2024, quashed the detention order dated 8th May, 2024 by observing that out of five FIRs, three were stale and the two FIRs, i.e. FIR No. 38/2020 under Section 420/109 IPC of P/S Vijaypur and FIR No. 102/ of 2023 under Section 451/323/504/506 IPC of P/S Vijaypur, on the basis of which the respondent has been detained, by no stretch of imagination and justification can be correlated with the maintenance of public order, so as to warrant the preventive detention of the respondent.

5. It is contended by the appellants that the learned writ court has not rightly appreciated the controversy, and as such has fallen in error of law by quashing the order of detention.

6. The perusal of record reveals that FIR No. 38/2020 pertains to offences under Section 420/109 IPC and FIR No. 102/2023 pertains to offences under Section 451/323/504/506 IPC. The allegations of cheating as leveled in FIR No. 38/2020 cannot have any correlation with the activities prejudicial to the maintenance of public order as defined in section 8(1)(a) of the Act, therefore, the same could not have been the basis for issuance of detention order.

7. So far as the allegations in respect of FIR No. 102/2023 are concerned, the allegations were leveled against one *Banu Pratap Singh @ Banu* only and no allegations were leveled against the respondent, however, the respondent was found to be involved in the case subsequently and arrested. Even these allegations do not fall within the activities prejudicial to the maintenance of public order as defined in the Act. The allegations leveled in this FIR may be a law-and-order issue, but in no way can be termed as activities prejudicial to the maintenance of public order.

8. In this regard, support can be had from the decisions of the Hon'ble Supreme Court of India in ***Banka Sneha Sheela v. State of Telegana & ors.*** reported in ***(2021) SCC 415 and Arjun S/O Ratan Gaikwad v. State of Maharashtra and Ors*** reported in ***2024 Livelaw (SC) 982.***

9. We have examined the judgment passed by the learned writ court and we do not find any reason to show indulgence, as the learned writ court has rightly arrived at the conclusion that the order of detention is not sustainable in the eyes of law.

10. In view of above, this appeal is found to be misconceived and is, accordingly, dismissed.

(RAJNESH OSWAL) **(ARUN PALLI)**
JUDGE **CHIEF JUSTICE**

SRINAGAR:
16.05.2025
"Abdul Rashid"

HIGH COURT
JAMMU & KASHMIR AND LADAKH

Nissar Ahmad Bhat
I attest to the accuracy and
authenticity of this document

19.05.2025 16:59