Regular Cause List
Serial No. 04

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

HCP No. 39/2026

Shabaz Ahmed

.....Petitioner

Through :- Mr. Yaseer Sultan Shan, Advocate

v/s

UT of J&K & Ors. .....Respondents

Through :- Ms. Nazia Fazal, Advocate vice
Mrs. Monika Kohli, Sr. AAG

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

ORDER
29.10.2026

1. Heard Mr. Yaseer Sultan Shan, learned counsel for the petitioner.

2. The petitioner, acting through his brother, is challenging his detention effected under Order **No. PITNDPS 70 of 2025** dated **27.11.2025** passed by the respondent No. 2- Divisional Commissioner, Jammu in exercise of powers under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act, 1988.

3. Pursuant to said detention order, the petitioner came to be taken into custody on **12.12.2025** and is, thus, bound to suffer custody of one year with effect from **12.12.2025** and by that reckoning is left with one and half month of remaining custody to undergo before coming out as a free man with restored personal

liberty but, nevertheless, the petitioner is seeking adjudication of the matter by this Court.

4. The detention order against the petitioner came to be passed by the respondent No. 2- Divisional Commissioner, Jammu purely on the basis of criminal antecedents of the petitioner by reference to **FIR Nos. 54/2024** & **94/2025** registered by the Police Station, Rajouri in which the petitioner is undergoing trial while being on bail.

5. The petitioner assails that the preventive detention custody slapped upon him is nothing but a sentence given in advance by the Executive without waiting the criminal court to come up with its verdict on the guilt or innocence of the petitioner.

6. When this Court examines the grounds of detention in support of the detention order, this Court cannot escape the fact that preventive detention of the petitioner was solicited, by the Senior Superintendent of Police (SSP), Rajouri, without due diligence at his end in the matter of examining as to whether the petitioner was on bail granted in his favour in said two criminal cases and if so, as to whether the bail so granted in his favour had ever been questioned by the Prosecution so as to ensure that the petitioner did not come out for the alleged purpose of indulging in repeat adverse activities for which the preventive detention was intended to be used against him.

7. Thus, on account of lack of due diligence on the part of the Senior Superintendent of Police (SSP), Rajouri, the entire

exercise sponsoring the preventive detention case against the petitioner was vitiated with illegality and continues to be so, notwithstanding the passing of detention Order **No. PITNDPS 70 of 2025** dated **27.11.2025** by the respondent No. 2- Divisional Commissioner, Jammu which was confirmed by the Government.

8. Therefore, this Court allows the writ petition and declares the detention order **No. PITNDPS 70 of 2025** dated **27.11.2025** read with the confirmation order as illegal and both of them are hereby set aside with a direction to the Superintendent Central Jail, Kot Bhalwal, Jammu to release the petitioner from the confines of the Jail.

9. ***Disposed of*** accordingly.

(RAHUL BHARTI)
JUDGE

JAMMU
29.10.2026
Sneha

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

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते