Serial No. 6
Regular Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

HCP 28/2026 CM(1302/2026) CM(1583/2026)

MUNTAZIR ASLAM BHAT TH.HIS FATHER

…Appellant(s)\Petitioner(s)

Through: -
Mr. Syed Sajad Geelani, Advocate

V/s

UNION TERRITORY OF J AND K TH.PR. COMMR/SECTY TO HOME AND OTHERS

… Respondent(s)

Through: -
Ms. Rahila Khan, Assisting Counsel vice
Mr. Mohsin Qadri, Sr. AAG

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

(ORDER)
12.11.2026

1. Heard Mr. Syed Sajad Geelani, learned counsel for the petitioner and also heard Ms. Rahila Khan, Assisting Counsel to Mr. Mohsin Qadri, learned Sr. AAG. Perused the writ pleadings along with annexures thereto.

2. The petitioner is suffering preventive detention custody with effect from **07/02/2026** under the effects of an Order **No.DIVCOM-"K"/06/2026** dated **05/02/2026** passed by the respondent No. 2- Divisional Commissioner, Kashmir acting in exercise of authority and power under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act,1988.

3. The petitioner has so far suffered nine months of the custody period out of prescribed custody period of 12 months and in that state of custody is carrying on with his hope of earning a release from his preventive detention custody through adjudication of the present writ petition.

4. The passing of the impugned preventive detention Order **No.DIVCOM-"K"/06/2026** dated **05/02/2026** passed by the respondent No. 2- Divisional Commissioner, Kashmir against the petitioner is based upon grounds of detention formulated in support of said preventive detention order.

5. In the grounds of detention, the criminal antecedents of the petitioner are being related to **FIR No. 110 / 2024** and **FIR No. 249 /2024** both of the Police Station- Bandipora for alleged commission of offences under section 8/20 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act 1985.

6. In the grounds of detention, it is being specifically mentioned that the petitioner is on bail by reference to said two cases and the bail condition is to the effect that petitioner shall not indulge in similar unlawful activities.

7. It was reckoned by the Senior Superintendent of Police (SSP), Bandipora that despite being on bail, the petitioner was clandestinely and discretely continuing with his involvement in contraband-related activities in violation of the bail conditions.

8. The petitioner has assailed his detention, inter-alia, on the grounds as mentioned in para 9 (a) to (u).

9. The petitioner refers to his preventive detention as a punitive detention for the fact that petitioner came to be granted bail by the criminal court of law in which he is undergoing trial, and instead of seeking cancellation of bail from the concerned court, preventive detention jurisdiction came to be resorted to as a shortcut for keeping the petitioner in a state of confinement so as to serve an advance sentence upon the petitioner.

10. When this Court examines the grounds of detention, this Court is left perplexed that in case the petitioner was found indulging in a clandestine and discrete manner in illegal activities relating to contraband about which there is otherwise no mention made in the entire grounds of detention, then why

resort to seek cancellation of bail was avoided and abandoned. The petitioner is surely subjected to punitive detention and not to preventive detention.

11. In the light of the aforesaid inherent lacuna in the very basis of the petitioner's preventive detention generated by the respondent No.3- Senior Superintendent of Police (SSP), Bandipora and reciprocated by the respondent No.2- Divisional Commissioner, Kashmir, this Court is hereby quashing the preventive detention Order **No.DIVCOM-"K"/06/2026** dated **05/02/2026** passed by the respondent No. 2- Divisional Commissioner, Kashmir read with approval/confirmation/extension order/s and directs immediate release of the petitioner from the preventive detention custody from the District Jail Bhaderwah` for which the Superintendent concerned to act in abidance forthwith.

12. **Disposed** of.

(RAHUL BHARTI)
JUDGE

SRINAGAR
12.11. 2026
"Opinder"