S. No. 14
Regular list

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

HCP 53/2026

MOHAMMAD ASIF MIR …Petitioner(s)

Through: Mr. Tariq M. Shah, Advocate.

Vs.

UNION TERRITORY OF J AND K AND OTHERS …Respondent(s)

Through: None.

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI JUDGE

JUDGMENT
11.11.2026

1. Heard Mr. Tariq M. Shah, learned counsel for the petitioner.
2. None for the respondents-U T of J & K & Ors. to argue in support of their case.
3. The petitioner, through the medium of present petition, is questioning his preventive detention custody effected by virtue of an order bearing No. **DIVCOM-"K"/19/2026 dated 04.05.2026,** passed by the respondent No. 2-Divisional Commissioner, Kashmir, acting in exercise of power and authority vested in him under section 3 of **the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988** (hereinafter referred to as the "PIT NDPS" Act).

4. The petitioner came to be ordered to be arrested and kept confined in the Central Jail, Kot Bhalwal, Jammu. The petitioner came to be taken into custody on **07.05.2026** where he is serving his prescribed detention period of one year which is destined to last till **06.05.2027**.

5. The petitioner has served almost more than six months of his detention period and is now in the seventh month of detention period. Another adjournment would cost the petitioner one more month of detention, unless and until the outcome of this petition comes adverse against the petitioner, but that does not seem to be the case, as the petitioner's preventive detention seems to be seriously vitiated on the facts and circumstances to be referred herein next.

6. The petitioner's detention case was processed by the Senior Superintendent of Police (SSP), Shopian, by virtue of a dossier bearing **No. PSA-Cell/SPN/2026/17114-16 dated 17.04.2026,** whereupon the respondent No. 2-Divisional Commissioner, Kashmir, came to apply his mind to formulate the grounds of detention with regard to the petitioner's criminal antecedents in terms of FIR No.

4/2023 registered with the Police Station Keller, for the alleged commission of offence/s under section 8/20 of the **Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).**

7. That being the sole adverse antecedent of the petitioner, same came to be reckoned as a circumstance for booking the petitioner under preventive detention jurisdiction with live link being proceedings under sections **126/170** of Bharatiya Nagarik Suraksha Sanhita, (BNSS) 2023.
8. The respondent No. 2-Divisional Commissioner, Kashmir, came to draw subjective satisfaction to pass detention order **No. DIVCOM-"K"/19/2026 dated 04.05.2026.**
9. The petitioner came forward with the present writ petition, filed on **03.06.2026**, acting through his father while being in the state of said custody.
10. The respondent No. 2-Divisional Commissioner, Kashmir, in the opening lines of his detention order **No**. **DIVCOM-"K"/19/2026 dated 04.05.2026**, is referring to production of material against the petitioner by the Senior Superintendent of Police, (SSP) Shopian, vide his communication No. No. **PSA-**

Cell/SPN/2026/17114-16 dated 17.04.2026, which is obviously meant to be the dossier, but it appears that the communication No. **PSA-Cell/SPN/2026/17114-16 dated 17.04.2026**, bearing the dossier, does not bear any mention, even by a whisper, as to any proceedings against the petitioner by reference to section 126 read with section 170 of the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**, which otherwise has been appropriated by the respondent No. 2, the Divisional Commissioner, Kashmir, to serve as a live link between the petitioner's alleged activity relatable to **FIR No. 4/2023** to the point of service of the dossier against the petitioner, warranting preventive detention of the petitioner. Thus wherefrom the respondent No. 2-Divisional Commissioner, Kashmir, came to draw purported reference of the petitioner being booked for proceedings under section 126 read with section **170** of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, is a fact best known only to the respondent No. 2,-Divisional Commissioner, Kashmir, but surely not known to the petitioner and also to the Senior Superintendent of Police, (SSP)

District Shopian, the author of the dossier, and that is reflective of the fact that respondent No. 2-Divisional Commissioner, Kashmir, acted on extraneous material to justify the preventive detention order being passed against the petitioner and that renders the exercise of jurisdiction seriously vitiated with an illegality patent enough to warrant its quashment.

11. Accordingly, detention order No. **DIVCOM-"K"/19/2026 dated 4th May 2026** read with confirmation Government Order No. **Home/PB-V/613 of 2026 dated 30.05.2026** are hereby quashed. The petitioner is directed to be released to his personal liberty by release from the confines of the Central Jail, Kotebhalwal, Jammu forthwith.

12. **Disposed of.**

(RAHUL BHARTI)
JUDGE

SRINAGAR
11.11.2026
Hilal Ahmad

Whether the judgment is speaking? *Yes*