

**HIGH COURT OF JAMMU AND KASHMIR  
AT JAMMU**

HC (W) No. 44/2011

C.M.A No. 24/2011

Date of decision: 17.10.2012

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Ruksana Begum alias Halima Begum     v.     State of J&K and ors.

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**Coram:**

**Mr. Justice J.P.Singh.**

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**Appearing counsel:**

For Petitioner(s)                     :     Mr. Rohit Verma, Advocate.

For Respondent(s)                   :     Mr. Gagan Basotra, Sr.AAG.

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| i)  | Whether approved for reporting<br>in Press/Media | : | <b>Yes/No.</b> |
| ii) | Whether to be reported<br>in Digest/Journal      | : | <b>Yes.</b>    |
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Ruksana Begum alias Halima Begum was detained in preventive custody pursuant to District Magistrate, Doda's Order No. DM/ Doda/ PSA/ 2KXI/224 dated 26.01.2011 issued under Section 8 of the Jammu and Kashmir Public Safety Act, 1978. She has questioned the detention on various grounds.

Heard learned counsel for the parties and perused the detention records made available by the learned Senior Additional Advocate General, Mr. Gagan Basotra.

Perusal of the Grounds of Detention reveals that Ruksana Begum alias Halima Begum was in police custody in FIR No. 13/2011 registered at Police Station, Doda under Sections 7/25/27 IAA, 212/216 RPC and 3/4 ESA when her detention in preventive custody was ordered.

True it is, that a person in custody, may well be detained in preventive custody as well on sustainable grounds; but before so doing, the detaining authority must be satisfied that the detainee was likely to be released from custody and would indulge in activities for which his/her detention in preventive custody be warranted under the laws in force. Such satisfaction needs to be recorded on the basis of the material justifying such satisfaction and not on mere *ipse dixit* of the detaining authority.

The grounds of detention on the basis whereof Ruksana Begum was ordered to be detained, do not indicate Detaining Authority's satisfaction on *real* likelihood of detainee's release from custody in FIR No. 13/2011, in which she was detained at the time of her detention in preventive custody. The Detaining Authority had no material available with it for recording satisfaction that detainee was likely to be released from custody.

In the absence of the Detaining Authority's satisfaction that there was *real* likelihood of Ruksana Begum alias Halima Begum's release from custody in FIR No. 13/2011, her detention in preventive custody, cannot be sustained.

I am supported in taking the above view by what was reiterated by Hon'ble Supreme Court of

India in *Huidrom Konungjao Singh v. State of Manipur and ors*, reported as (2012) 7 SCC 181.

The detention of Ruksana Begum thus having been found illegal on the above ground, there is no need to deal with the other grounds projected by learned counsel for the detinue at the time of consideration of the Petition.

This Petition accordingly succeeds and is, therefore, allowed quashing District Magistrate, Doda's order No. DM/Doda/PSA/2KXI/224 dated 26.01.2011.

A direction shall issue to the respondents to release Ruksana Begum alias Halima Begum from her preventive custody.

Detention Records to be returned to the learned State counsel.

**(J.P.Singh)**  
**Judge**

Jammu:  
17.10.2012  
*Naresh/Pvt. Secy.*