

**HIGH COURT OF JAMMU & KASHMIR**  
**AT SRINAGAR**

**HCP No.32/2016**  
**CMP No.01/2016**

Date of decision:**27 -06-2016**

Sajid Ahmad Lone

Vs.

State of J&K & others

**Coram:**

*Hon'ble Mr. Justice Mohammad Yaqoob Mir*

**Appearing counsel:**

**For the Petitioner(s):** Mr. M. A. Qayoom.

**For the respondent(s):** Mr. Shah Aamir, Dy. AG.

i) Whether to be reported  
in Digest/Journal: **YES**

ii) Whether to be reported  
in Press/Media: **OPTIONAL**

1) Impugned is the order of detention bearing  
No.09/ DMP/PSA/16 dated 24.02.2016, passed by  
District Magistrate, Pulwama, in terms whereof,  
detenu has been detained and lodged in District  
Jail, Kathua.

2) First contention of the learned counsel for the  
petitioner is that the detenu has been deprived of  
making representation because he was not furnished  
copy of the dossier and other material forming base  
for his detention which is an essential requirement.  
It is also added that in the grounds of detention  
styled as "dossier" it has been mentioned that the  
detenu has been actively involved in various  
activities but no material to support such allegation

has been brought on record what to speak of furnishing of such material to the detenu.

3) The submission as made has a prevailing force because nothing has been brought on record to show that the above referred material has been furnished to the detenu, though respondents were given ample opportunities to produce requisite detention record which they have not. The material forming base for the dossier has not been furnished. It is also a fact that there is nothing on record to show that the detenu in any way has been acting prejudicially to the security of the State. The inference is that no such material has been available.

4) Another contention of learned counsel for the petitioner is that the detenu was shown arrested in connection with case FIR Nos.367/2010 and 414/2015. He neither had applied for bail nor was released, how the Detaining Authority has inferred that there is likelihood of the detenu being admitted to bail, is not forthcoming. In such situation, if the order of detention is to be passed, then the Detaining Authority has to record cogent

reasons so as to show compulsion for passing of such order of detention. It is this situation which has been attempted to be neutralized by recording that there is likelihood of the detenue being admitted to bail.

5) One of the requirements for deriving subjective satisfaction is to formulate the grounds of detention which shall form basis for passing the order of detention. In the order impugned as passed by District Magistrate, it is recorded; "*Whereas on the basis of dossier detention placed before me by the Superintendent of Police, Pulwama vide his No.CRB/PSA/16/795 dated 23.02.2016 I am satisfied...*", which shows that Detaining Authority has not formulated the grounds of detention, what to speak of scanning material for preparation of such grounds of detention. Copy of the grounds of detention are placed on file but not referred to in the order of detention. Non-application of mind is writ large. When it is so, invasion to personal liberty is impermissible.

6) Another glaring example of non-application of mind is that the grounds of detention have been started with the words “Subject:- Dossier”.

7) The material which has been considered by the detaining authority too has not been furnished to the detenu, as such, deprived of making effective representation as is right guaranteed under Article-22(5) of the Constitution.

8) The cumulative effect of the aforesaid discussion leads to only one conclusion i.e. the order of detention impugned is not valid, as such, is quashed. The detenu, namely, Sajid Ahmad Lone S/O Mohammad Ramzan Lone R/O Lelhar Tehsil Kakapora District Pulwama is ordered to be released from the preventive custody forthwith provided he is not required in connection with any other case.

(Mohammad Yaqoob Mir)  
Judge

Srinagar  
27.06.2016  
“Mohammad Altat”