

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

Reserved on: 14.03.20223
Pronounced on: 31.03.2023

WP(Crl) No.755/2022

MUNTAZIR AHMAD MIR ...**PETITIONER(S)**

*Through: - Mr. Mohammad Ayoub Bhat, Advocate,
with Ms. Mahjabeena, Advocate.*

Vs.

UT OF J&K & OTHERS ...**RESPONDENT(S)**

Through: - Mr. Furqan Yaqoob, GA.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) Impugned in this petition is the detention order bearing No.81/DMP/PSA/22 dated 03.11.2022, passed by District Magistrate, Pulwama (respondent No.2) whereby the petitioner has been taken into preventive custody with a view to prevent him from acting in any manner prejudicial to the security of the State. The said order has been passed by respondent No.2 in exercise of his powers under Section 8 of the Jammu & Kashmir Public Safety Act, 1978.

2) The petitioner has challenged the impugned order of detention on the grounds that the same is violative of constitutional guarantees; that the material forming basis of the grounds of detention has not been supplied to the detenu thereby

curtailing his right to make an effective representation against impugned order of detention; that the petitioner has not been informed about his right of making a meaningful and effective representation to the detaining authority as well as to the government; that the allegations leveled in the grounds of detention are vague and that representation of the detenu against the order of detention has not been considered by the respondents.

3) The petition has been resisted by the respondents by filing a counter affidavit thereto. In their counter affidavit, the respondents have submitted that all the safeguards have been adhered to and complied with by the detaining authority and that the order has been issued validly and legally. It is pleaded that the detention order and grounds of detention along with the material relied upon by the detaining authority were handed over to the detenu and the same were read over and explained to him. It is contended that the grounds urged by the petitioner are legally misconceived, factually untenable and without any merit. That the detenu was informed that he can make a representation to the government as well as to the detaining authority against his detention. That the grounds urged by the petitioner are legally misconceived, factually untenable and without any merit. It is further averred that the impugned detention order has been passed after following the due procedure of law. In order to buttress the contentions raised in the counter affidavit, learned counsel for the respondents has also produced the detention record.

4) I have heard learned counsel for the parties and perused the record.

1) Learned counsel for the petitioner, while seeking quashment of the impugned order, projected various grounds but his main thrust during the course of arguments was on the following grounds:

- (I) That whole of the material that has been relied upon by the detaining authority while framing the grounds of detention has not been supplied to the petitioner.*
- (II) That the grounds of detention are vague on the basis of which no effective representation could have been made.*
- (III) That the petitioner has not been informed about his right of making a representation to the detaining authority as well as to the government.*
- (IV) That the representation of the petitioner against the impugned order of detention has not been considered.*

5) So far as the relating to non-supply of material is concerned, the same is not substantiated from the detention record. As per the execution report, which bears signature of the petitioner, eight leave, which include copies of the detention order, letter addressed to the petitioner, grounds of detention and other documents, are stated to have been handed over to the petitioner. The grounds of detention comprises two pages, the order of detention and the letter of detention comprise one page each whereas dossier of detention comprises three pages. The impugned detention order is

based upon the dossier submitted by Senior Superintendent of Police to the detaining authority. No other material has been relied upon by the detaining authority while passing the impugned order of detention. Since the dossier of detention as also the grounds of detention have been furnished to the petitioner, as such, it cannot be stated that whole of the material was not furnished to him. The ground urged by the petitioner in this regard is without any merit.

6) It has been next contended by learned counsel for the petitioner that the grounds of detention are vague on the basis of which no effective representation could be made.

7) A perusal of the grounds of detention would reveal that it is indicated therein that the petitioner is an Over Ground Worker of banned terrorist organization LeT. As per the grounds of detention, the petitioner is alleged to be a close associate of active terrorist, namely, Reyaz Ahmad Dar @ Khalid @ Sheeraz R/O Sethergund Pulwama, who happens to be the District Commander of LeT. It is also indicated in the grounds of detention that the petitioner established contact with terrorist handler, namely, Ali Sajad on Telegram in the month of August, 2022. The grounds of detention go on to allege that on the directions of the aforesigned handler, the petitioner received and distributed money amongst terrorist families and sympathizers.

8) From the above, it is clear that in the grounds of detention there are specific allegations made against the petitioner. The

particulars of the alleged terrorists, with whom the petitioner is stated to have close association and with whom he is stated to be in contact, are clearly mentioned. So, it cannot be stated that the grounds of detention are vague. In fact, specific instances and specific names have been mentioned in the grounds of detention showing involvement of the petitioner in the subversive activities. The contention of learned counsel for the petitioner is, therefore, without any merit.

9) The contention of learned counsel for the petitioner that the petitioner has not been informed about his right to make a representation against the impugned order to the detaining authority as also to the government is belied from his own documents. In the notice of detention, which is annexed to the writ petition, it is clearly mentioned that the detenu is at liberty to make representation before the detaining authority as well as before the Government.

10) Lastly, it has been contended by learned counsel for the petitioner that the representation of the petitioner has not been considered by the respondents.

11) A perusal of the detention record would reveal that the case of the petitioner was considered by the Advisory Board on 16th November, 2022 and in the order passed by the Advisory Board, it is indicated that no representation has been made by the detenu. The petitioner has annexed a copy of representation dated

11.11.2022 along with his petition but the detention record shows that the date of said representation is 21st November, 2022, meaning thereby that the representation has been made on behalf of the petitioner after the Advisory Board had considered his case and at the relevant time there was no representation of the petitioner before the Government. The record also reveals that the representation of the petitioner which he had made after consideration of the petitioner's case by the Advisory Board, has been considered by the Government and the same has been rejected. Therefore, it cannot be stated that the representation of the petitioner has not been considered by the respondents.

12) For the foregoing reasons, I do not find any ground to interfere in the impugned order of detention. The petition lacks merit and is dismissed accordingly.

13) The detention record be returned to the learned counsel for the respondents.

(Sanjay Dhar)
Judge

SRINAGAR
31.03.2023
"Bhat Altaf, PS"

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