

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

Reserved on: 05.12.2024

Pronounced on: 03.01.2025

**HCP No.24/2023**

**ZAHID NISAR HAJAM**

**...PETITIONER(S)**

*Through: - Mr. G. N. Shaheen, Advocate, with  
Mr. Asif Iqbal, Advocate.*

Vs.

**U T OF J&K & ORS.**

**...RESPONDENT(S)**

*Through: - Mr. Syed Musaib, Dy. AG.*

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

**JUDGMENT**

**1)** By the instant petition, the petitioner has challenged the veracity and legality of the detention order No.173/DMS/PSA/2023 dated 17.07.2023 issued by District Magistrate, Shopian (*"the detaining authority"*). In terms of the aforesaid order, *Zahid Nisar Hajam S/o Nisar Ahmad Hajam R/o Sindu Shirmal Tehsil Keegam District Shopian* (*"the detenu"*) has been placed under preventive detention and lodged in District Jail, Baramulla, in order to prevent him from indulging in the activities which are prejudicial to the security of the UT/Country.

**2)** The petitioner has contended that the detaining authority has issued the impugned detention order mechanically without application of mind as the allegations mentioned in the grounds of detention have no nexus with the detenu and that the same have been fabricated by the police in order to justify its illegal action of detaining the detenu. It has been contended that the grounds of detention are vague, non-existent on the basis of which no prudent man can make a representation against

such allegations. It has been further contended that the procedural safeguards have not been complied with in the instant case, inasmuch as whole of the material which formed basis of the impugned detention order has not been supplied to the petitioner.

3) The respondents have resisted the petitioner by filing a reply affidavit, wherein they have contended that the activities of detinue are highly prejudicial to the security of the State. It is pleaded that whole of the material relied upon by the detaining authority has been furnished to the detinue and the contents thereof were read over and explained to him and that the detinue was informed that he can make a representation to the government as well as to the detaining authority against his detention. It is further contended in the reply affidavit that all statutory requirements and constitutional guarantees have been fulfilled and complied with by the detaining authority and that the impugned order has been issued validly and legally. The respondents have produced the detention record to lend support to the stand taken in the counter affidavit.

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

5) 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 ground that the detinue has not been provided the whole of the material, which prevented him from making an effective representation against his detention.

6) So far as the ground of challenge is concerned, a perusal of the detention record would show that in terms of receipt executed by the petitioner, he has received only grounds of detention consisting of five leaves (though the grounds of detention comprises only three pages). That means, copies of PSA warrant, notice of detention and order of detention have not been provided to the petitioner. Even the copy of the dossier of detention has not been supplied to the petitioner.

7) Thus, contention of the petitioner that whole of the material relied upon by the detaining authority, while framing the grounds of detention, has not been supplied to him, appears to be well-founded. Obviously, the petitioner has been hampered by non-supply of these vital documents in making an effective representation before the Advisory Board. Thus, vital safeguards against arbitrary use of law of preventive detention have been observed in breach by the respondents in this case rendering the impugned order of detention unsustainable in law.

8) For the foregoing reasons, the petition is allowed and the impugned order of detention is quashed. The detinue is directed to be released from the preventive custody forthwith provided he is not required in connection with any other case.

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

**(Sanjay Dhar)**  
**Judge**

**SRINAGAR**  
**03.01.2025**  
**“Bhat Altaf-Secy”**

*Whether the order is reportable:*

**Yes/No**