

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

Reserved on: 21.12.2024

Pronounced on: 03.01.2025

HCP No.39/2023

SHAHID MAQBOOL BHAT ...Petitioner(s)

Through: -Mr. Saiful Islam Malik, Advocate

Vs.

UT OF J&K & ANOTHER ...Respondent(s)

Through: -Mr. Mubashir Majid Malik, Dy. AG.

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

JUDGMENT

1) Through the medium of present petition, the petitioner has challenged detention order bearing No.46/DMP/PSA/23, dated 04.08.2023, passed by District Magistrate, Pulwama-respondent No.2, whereby *Shahid Maqbool Bhat @ Shahid Tiger ("the detenue")*, has been placed under preventive detention with a view to prevent him from acting in any manner prejudicial to the security of the State. The order is, purportedly, passed by the detaining authority in exercise of powers conferred under Section 8 of the J&K Public Safety Act, 1978.

2) The petitioner has contended that the impugned order has been issued without application of mind as the allegations mentioned in the grounds of detention have no nexus with the detenue 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 and cryptic in nature and the same are based on stale incidents which have no proximate and live link with the detention order. It has been further contended that the safeguards provided under law 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. It has been further contended that the representation filed by the detenu against his detention has not been considered.

3) Upon being put to notice, the respondents appeared through their counsel and filed their reply affidavit, wherein they have contended that the activities of detenu 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 detenu and the same was read over and explained to him and that the detenu 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) For assailing the impugned order of detention, the learned counsel appearing for the petitioner laid much emphasis on the following grounds:

- (I) That the grounds of detention are based upon stale incidents having no proximity and nexus with the impugned order of detention.
- (II) That the grounds of detention are vague, lacking in material particulars and on the basis of such grounds, the petitioner could not have made an effective representation.
- (III) That there has been non-application of mind on the part of the detaining authority, inasmuch as the grounds of detention are replica of police dossier.
- (IV) That whole of the material forming basis of the grounds of detention has not been furnished to the petitioner
- (V) That the representation made by the petitioner against the impugned order of detention has not been considered.

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

7) So far as the first ground of challenge urged by learned counsel for the petitioner is concerned, in this regard if we

have a look at the grounds of detention, it bears reference to incident of the year 2022, according to which some terrorists had lobbed a hand grenade on Police Station, Pulwama, and involvement of the petitioner in the said incident was established. The grounds of detention also bear reference to allegation against the petitioner that he has been in constant touch with Pak handler, namely, Ashaq Hussain Nengroo through social media networking system. It is also stated in the grounds of detention that the petitioner has contacts with radical elements of Rajpora Drubgam area and these elements include Ahsaan-ul-Haq and Haris Nazir Dar.

8) From the above, it is clear that the petitioner's involvement in the alleged activities pertains to the year 2022 and thereafter. The impugned order of detention has been passed on 4th August, 2023. Therefore, by no stretch of reasoning, it can be stated that there is no proximity between the incidents mentioned in the grounds of detention and the date on which the order of detention has been passed. It is also clear from the grounds of detention that there are specific allegations against the petitioner. The names of Pak handlers, with whom the petitioner has been allegedly in constant touch, have clearly been mentioned in the grounds of detention and even the names of radical elements with whom the petitioner had a chance to meet, are mentioned in the

grounds of detention. Thus, the contention of the petitioner that the allegations made in the grounds of detention as against him are vague in nature, is without any substance.

9) Regarding the contention relating to non-application of mind, if we have a look at the grounds of detention and the police dossier, it clearly comes to the fore that there is no similarity between the two. The detaining authority, after culling out necessary facts from the police dossier, has clearly recorded its satisfaction that the activities of the petitioner are highly prejudicial to the security of the State. The grounds of detention framed by the detaining authority exhibit application of mind on its part and it cannot be stated that the same are mere reproduction of the dossier. The contention of learned counsel for the petitioner is, therefore, without any merit.

10) Regarding non-supply of material to the petitioner, the respondents have along with detention record, placed on record the execution report as well as receipt executed by the petitioner. As per these documents, the petitioner has received five leaves comprising grounds of detention and eight leaves comprising other documents, meaning thereby that the petitioner has received copies of detention warrant, grounds of detention, police dossier as well as copies of FIR and other relevant documents comprising of total 13 leaves. In the

execution report, it has been also reported that the contents of these documents have been explained to the petitioner in Urdu, Hindi and Kashmiri languages. Thus, whole of the material forming basis of the grounds of detention has been furnished to the petitioner.

11) That takes us to the contention regarding non-consideration of representation of the petitioner. According to the petitioner, he had submitted representation dated 10.08.2023 before the District Magistrate, Pulwama, but the same has not been considered by the respondents. A perusal of the detention record shows that representation dated 10.08.2023 addressed by the petitioner to District Magistrate, Pulwama, has been considered by the said authority and the same has been rejected. The rejection of the representation has been conveyed to the petitioner by the District Magistrate in terms of his communication dated 11.08.2023. Therefore, it cannot be stated that the representation of the petitioner against the impugned order of detention has either not been considered by the detaining authority or that result of the consideration has not been conveyed to him. The contention in this regard is without any merit.

12) For the foregoing reasons, I do not find any ground to interfere with 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

03.01.2025

"Bhat Altaf-Secy"

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

