

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

Reserved on : 19.03.2024

Pronounced on : 04.04.2024

Case:- **WP(Crl) No. 549/2022**

**Bilal Ahmad Dar, Aged : 26 years
S/o Gulzar Ahmad Dar,
R/o Tangwari Payeen of District Baramulla
Through his Brother namely Abid Gulzar**

....Petitioner(s)

Through: Mr. Syed Avees Geelani, Advocate

Vs

- 1. Union Territory J&K through Principal Secretary to Government/
Financial Commissioner, Home Department, Civil Secretariat, Srinagar/
Jammu.**
- 2. District Magistrate, Baramulla.**
- 3. Superintendent, Central Jail Kotbhalwal, Jammu.**

..... Respondent(s)

Through: Mr. Jahangir Ah. Dar, GA

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

1. Heard the learned counsel for both sides. Perused the writ pleadings and the record therewith and also the detention record.

2. The petitioner, who is a 26 years aged person and being in a state of detainment acting through his brother Abid Gulzar, has petitioned this court with the present writ petition under article 226 of the Constitution of India for a writ of certiorari and

habeas corpus in order to earn restoration of his fundamental right to personal liberty curtailed by his preventive detention.

3. The respondent No. 2 – District Magistrate, Baramulla by virtue of an order No. 51/DMB/PSA/2022 dated 25.06.2022 directed the preventive detention of the petitioner by reckoning his activities prejudicial to the security of the State and directed his arrest and confinement in Central Jail Kotbhalwal, Jammu.

4. This detention order came to be passed by the respondent No. 2 – District Magistrate, Baramulla in furtherance of a dossier submitted by the Sr. Superintendent of Police (SSP), Baramulla vide letter No. CS/PSA/2022/5505-08 dated 24.06.2022 thereby reporting that the petitioner's alleged activities were detrimental to the security of the State and that requires subjecting the petitioner to preventive detention.

5. For enabling himself to pass the detention order, the respondent No. 2 – District Magistrate, Baramulla formulated the grounds of detention, thereby identifying the petitioner to be an overground worker (OGW) of LeT outfit and the petitioner's activities being found responsible for creating circumstances conducive to the propagation of secessionist ideology. The petitioner is stated to be harbouring anti-national sentiments and coming in contact with an overground worker of LeT outfit Ishfaq

Ahmad Bhat on whose motivation the petitioner started working with him and both have started providing food and shelter to a Pakistani militant, namely, Usman Bhai and one local terrorist, namely, Hilal Ahmad Sheikh who got killed in an encounter at Malwa Kunzer in the year 2022.

6. The preventive detention order passed by the respondent No. 2 – District Magistrate, Baramulla came to be confirmed by the Govt. by virtue of Govt. Order No. Home/PB-V/1822 of 2022 dated 08.08.2022 followed by Govt. Order No. Home/PB-V/3121 of 2022 dated 16.12.2022 and the petitioner's place of detainment came to be in District Jail Faridabad, Haryana. The petitioner's preventive detention is said to have been directed to last for the full two years duration. The petitioner came to be arrested on 27.06.2022 in execution of the detention warrant.

7. It is this detention of the petitioner which is being impugned by the petitioner on the grounds as cited in the writ petition. The petitioner has alleged that the preventive detention order is based upon surmises and conjectures. The petitioner has denied each and every allegation made in the grounds of detention to be frivolous and baseless. The petitioner has alleged that his right to make an effective representation has been seriously prejudiced by vagueness of the grounds of detention.

8. The respondent No. 2 – District Magistrate, Baramulla, in his counter affidavit, has controverted the challenge posed by the petitioner in his writ petition to his preventive detention, on the strength of the grounds of detention and has reiterated that the preventive detention of the petitioner is justified.

9. When this Court examines the purported grounds of detention supporting the impugned detention order, this Court comes across with a fact that no criminal antecedents are reported and attached against the petitioner thereby leaving only bald opinionated statements coming forth from the contents of the dossier replicated as it is, meaning thereby without any factual content of some worth reporting some incidents in reference to the persons named in the grounds of detention the petitioner has been simply branded in a negative manner against which by no stretch of prudence any person including the petitioner can be expected to come up a fact based reply/representation to vindicate his conduct.

10. As the grounds of detention are nothing but a hallowed appropriation of words in profiling the petitioner so as to somehow carve out a justification for putting the petitioner behind the bars, just by impulse of suspicion entertained at the end of the District Police and reciprocated by the District Magistrate concerned, thus, the grounds of detention in the

present case forming the basis of the preventive detention order are held to be inherently vague, thereby vitiating the preventive detention of the petitioner.

11. Accordingly, the preventive detention order No. 51/DMB/PSA/2022 dated 25.06.2022 passed by the respondent No. 2 – District Magistrate, Baramulla read with consequent confirmation & extension orders are set aside and the preventive detention of the petitioner is held to be illegal and, therefore, the petitioner is held entitled to restoration of his personal liberty. The petitioner is, therefore, directed to be released from the confinements of the Jail wherever he is presently lodged and for that the Superintendent of concerned Jail is directed to release the petitioner forthwith and the respondent No. 2 – District Magistrate, Baramulla shall ensure that the petitioner is released without any delay.

12. ***Disposed of*** accordingly.

13. Detention record, if any, is returned back.

(RAHUL BHARTI)
JUDGE

SRINAGAR
04.04.2024
Muneesh

Whether the order is speaking : **Yes**

Whether the order is reportable: **Yes**