

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through Virtual Mode)**

Case: WP(Crl) No.510/2022

Pronounced on: 22.05.2024

1. Murtaza Munawar, aged 24 years Petitioner(s)
S/o Late Mohammad Munawar
Rather R/o Chakoora Tehsil
Shahoorra (Litter) District Pulwama.

Through :- Mr. Wajid Mohd. Haseeb, Advocate

Vs

1. Union Territory of Jammu andRespondent(s)
Kashmir, through Additional Chief
Secretary, Home Department, J&K
Govt. Civil Sectt. Srinagar/Jammu.
2. District Magistrate, Pulwama.

Through :- Mr. Jehangir Dar, GA vice
Mr. Zahid Qais Noor, GA.

CORAM:
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE

JUDGMENT

22.05.2024

01. The petitioner has challenged the detention order No.62/DMP/PSA/22 dated 29.06.2022, passed under Public Safety Act,1978 by the respondent No.2 on the ground that the petitioner is acting in a manner prejudicial to the security of the State.

02. The detention order is challenged on the ground that the allegations made in the detention order are vague and prevented the petitioner from making effective representation; that the detaining authority has relied upon the police

dossier and not applied its own mind while passing of detention order; that the petitioner was not supplied the requisite material; that the representation though made was not considered by the authorities. The petitioner also seeks compensation for alleged illegal detention order passed by the respondent No.2.

03. The counter stands filed to the petition wherein it is stated that the respondents have complied with all the procedural formalities while passing the detention order against the petitioner. The detention order was duly executed and the petitioner was handed over the requisite material and also explained the contents of the detention order. The representation made by the petitioner was considered and rejected on 15.07.2022. The detention order is validly passed against the petitioner. The prayer is for dismissal of the writ petition.

04. Heard learned counsel for the petitioner and learned Government Advocate.

05. Photo-copy of the record has also been produced by the learned Government Advocate.

06. The first ground agitated by the learned counsel for the petitioner is that grounds mentioned in the detention order are vague and ambiguous and do not co-relate with the passing of the detention order and not only that the petitioner has been deprived of making effective representation to the concerned authorities. The perusal of the detention order and the grounds mentioned in the same reveal that the respondent No.2-District Magistrate, Pulwama has purportedly relied upon the dossier provided by the SSP Pulwama. It is mentioned in the detention order that the petitioner is associated with various banned terrorist organizations and exploiting the religious sentiments of the people of the area and exhorting

them to indulge in activities to the prejudice to the security of the State. The petitioner is extending logistic support to the terrorists as well as Over Ground Worker (OGW) of a banned terrorist organization. The petitioner was on the forefront of violent mobs, who were pelting stones on security forces are also mentioned in the detention order. The associate of the petitioner are active in the area and could influence the petitioner for joining the militancy.

07. The argument of learned counsel for the petitioner that the reliance placed upon the dossier furnished by the SSP is fatal as there is no satisfaction of the detaining authority of its own while passing the detention order. If the respondent No.2 has taken into consideration the report of the SSP of the concerned area and thereafter made its own opinion for passing the detention order no illegality can be found in it. The subjective satisfaction of the respondent No.2 cannot be questioned by the Court in the present petition as the subjective satisfaction recorded cannot be said to be completely unjust and unfounded. It cannot be said that the grounds mentioned in the detention order are vague and un-specific. It is trite proposition of law that the satisfaction recorded by the detaining authority is normally not to be assessed and analyzed as if the court is sitting in appeal while deciding the same. The constitutional court at the same time not debarred from lifting the veil if the court is apparently of the view after going through the detention order that it requires interference from the court.

08. *In AIR 2019 SC 3428 titled Union of India and another Vs. Dimple Happy Dhakad*, wherein it has been held that the duty of the court to safeguard any against encroachment on the life and liberty individuals but at the same time the

authorities who discharged functions under law the same should not be interfered without justification.

09. The detention order has stated of the activities of the petitioner which affect the security of the nation. The argument raised of the ambiguity of the allegations in the detention order is rejected. It is specifically mentioned in the detention that he is over ground worker of banned terrorist organizations, exhorting the youth to join the terrorist activities and was part of mobs which pelted stones on security forces and chanted anti national slogans during funeral procession of terrorists.

10. *In Shabir Ahmad Najar Vs. Union Territory of J&K and another LPA No.185/2022 decided on 30.12.2023*, the Division Bench of this Court in somewhat similar circumstance held that the grounds mentioned in the detention order very sufficient to form the opinion to the effect that the detention of the petitioner is necessitated. The observation in the said authority applies on all fours in the present case.

11. The perusal of the execution warrant dated 01.07.2022 reveals that the petitioner has been given eight leaves including grounds of detention, dossier and other relevant record consisting of one leaf. The petitioner is signatory to the same. He has also been informed that he can make representation to the government as well as detaining authority. There is no reason to doubt that the aforesaid material has been provided to the petitioner while executing the warrant of detention against the petitioner.

12. The counsel for the petitioner has strenuously argued that the representation made by the petitioner to the detaining authority has not been

considered and thus his valuable right to know the reason for rejection of his representation stands flouted. As far as the representation of the petitioner is concerned the record reveals that the petitioner has filed the representation with the District Magistrate on 13.07.2022 and the same has been rejected vide dated 15.07.2022. The argument of learned counsel for the petitioner thus stands negated from the record.

13. The argument of learned counsel for the petitioner that the petitioner was not provided with the outcome of the representation made before the concerned authorities is without any force. The reliance placed upon the judgment reported in *2021 Legal Eagle (SC) 731 titled Sarabjeet Singh Mokha Vs. District Magistrate, Jabalpur and Ors.*, wherein the Hon'ble Supreme Court has emphasized of the communication of the outcome of the representation to the detinue does not come to the rescue of the petitioner as the petitioner has not taken the aforesaid plea in the grounds of detention and thus cannot take any benefit of the same.

14. The grounds agitated by the counsel for the petitioner to quash the detention order are without merit. The petition is, accordingly, *dismissed*.

15. Scanned record produced by the learned counsel for the respondents, if required be returned to him.

**(PUNEET GUPTA)
JUDGE**

Jammu
22.05.2024
Shammi

Whether the order is speaking:	Yes
Whether the order is reportable:	Yes