

(2022) 05 J&K CK 0059

In the Jammu And Kashmir High Court

Case No : Writ Petition (Criminal) No. 182 Of 2021, Criminal Miscellaneous Cases No.1216 Of 2021

Farooq Ahmad Misgar

APPELLANT

Vs

UT Of J&K And Anr

RESPONDENT

Date of Decision : 24-05-2022

Acts Referred:

Jammu And Kashmir Public Safety Act, 1978 — Section 8

Citation : (2022) 05 J&K CK 0059

Hon'ble Judges : Dhiraj Singh Thakur, J

Bench : Single Bench

Advocate : Tassaduq Hussain, Asif Maqboo, Sajad Ashraf

Final Decision : Dismissed

Judgement

Dhiraj Singh Thakur, J

1. The present Habeas Corpus petition has been filed for quashing the order of detention dated 18.10.2021 passed by the District Magistrate, Srinagar, who, in purported exercise of its powers vested in it under Section 8 of the Jammu and Kashmir Public Safety Act, 1978 (for short, Act of 1978), has ordered the detention of the petitioner with a view to prevent him from acting in any manner prejudicial to the maintenance and security of the State.

2. The order of detention was challenged on the following grounds:

(a) That the grounds of detention were vague and that no prudent man could make an effective representation in regard to the same before the competent authority.

(b) That the petitioner was not furnished the material and other connected documents, which prevented the petitioner from making an effective representation.

(c) That the grounds of detention were never explained to the detinue in his

local Kashmiri or Urdu language which he could have understood.

3. A detailed response has been filed by the official respondents rebutting the allegations as leveled in the petition. The relevant record has also been produced.

FIRST GROUND

4. The first ground urged by the learned counsel for the petitioner was that the grounds of detention were vague, rendering it difficult for the petitioner to make an effective representation to the concerned authority.

5. With a view to test the correctness or veracity of this argument, it becomes necessary to refer to the grounds of detention, which on perusal, reflects that the petitioner was working as an Assistant Cashier in the J&K Bank Shalimar Branch, Srinagar and that the petitioner was affiliated with The Resistance Front (TRF). It is further stated that the technical inputs clearly suggested that the petitioner was in touch with the Pakistan based terrorist leaders and have been taking instructions through a variety of new communication technologies which were encrypted and very difficult to decipher. It is also stated that the petitioner was an over ground worker of the TRF and was actively involved in providing a variety of logistics support to the shooters of the TRF who had unleashed a spate of terror by killing persons who were soft targets. These targets included street vendors, labourers from outside J&K working in orchards, small shops and commercial establishments, policemen who were off duty or were unarmed.

6. On a reading of the aforementioned grounds of detention, in my opinion, it cannot be said that the grounds of detention were vague as to make the order of detention nonest in the eyes of law or could prevent in any manner the petitioner from making an effective representation against the order of detention.

The argument that the grounds of detention were vague is an argument, which is untenable is accordingly, rejected.

SECOND and THIRD GROUND

7. The second and third grounds urged were that the petitioner had not been furnished the material and other connected documents which prevented him from making an effective representation before the competent authority and the grounds of detention were never explained to the detainee in his local Kashmiri or Urdu language which he could have understood.

In this regard, I have gone through the detention record and in particular, the execution report prepared by ASI Mohd. Sultan on 19.10.2021, which shows that the grounds of detention and the order of detention were not only handed over to the detainee but the contents thereof were read-over to the detainee in Urdu, English and Kashmiri Languages which he understood fully. Besides, he was also informed that he could make a representation against the order of detention if he so desired. Copy of the receipt of documents duly signed by the detainee is also on record. It thus becomes clear that the contention that the documents were

not handed over to the petitioner is not factually correct considering the receipt executed by none else than the petitioner himself as also the report of the Executing Officer, ASI, Mohd. Sultan.

8. It can be seen that the petitioner is working as a Cashier in the J&K Bank and, therefore, cannot claim that he is either illiterate or unable to understand the language in which the order of detention and the grounds of detention were couched obviating the necessity of furnishing a translated version of the said documents in any other language. Insofar as the legal obligation to read over the detention order and the grounds of detention to the detainee is concerned, the has been fully satisfied.

9. Having considered the entire matter in its entirety, in my opinion, no interference is warranted in the facts and circumstances of the present case. The petition is found to be without any merit and is accordingly dismissed.