
(2023) 08 J&K CK 0046

In the Jammu And Kashmir High Court

Case No : Writ Petition (Criminal) No. 251 Of 2022

Mansoor Nabi Bhat

APPELLANT

Vs

UT Of J&K And Another

RESPONDENT

Date of Decision : 24-08-2023

Acts Referred:

Citation : (2023) 08 J&K CK 0046

Hon'ble Judges : Puneet Gupta, J

Bench : Single Bench

Advocate : Mir Majid Bashir, Mohsin Qadri, Syed Musaib

Final Decision : Disposed Of

Judgement

Puneet Gupta, J

1. The petitioner-Mansoor Nabi Bhat has challenged the detention order No. 21/DMB/PSA/2022 dated 08.04.2022 passed by the District Magistrate, Baramulla-respondent No.2 herein, whereby he had been placed under preventive custody and lodged in Central Jail, Jammu (Kot Bhalwal). The order was passed on the ground that the acts of the detainee-Mansoor Nabi Bhat are prejudicial to the security of the State.

2. The allegations against the detainee as per the detention order are that the detainee has developed contacts with various terrorist organizations in order to carry out activities of secessionism and terrorism and has associated himself with The Resistance Front (TRF). It is also mentioned that the detainee is providing all logistic support including transportation of arms and terrorists from one place to another. Further that the detainee is the Over Ground Worker (OGW) of TRF and carries information on behalf of the terrorist organization. The acts of the detainee are thus prejudicial to the maintenance of security of the State.

3. Learned Senior Additional Advocate General has also produced the photo copy of the detention record.

4. Learned counsels for both the sides have argued the matter in tune with their respective pleadings.

5. In *Haradhan Saha v. State of W.B.* (1975) 3 SCC 198, the Hon'ble Supreme Court has pointed out the distinction between preventive detention and punitive detention and that an order of preventive detention is also not a bar to the prosecution. The purpose of preventive detention is not to punish him but to just prevent him from carrying out his design which the authorities anticipate for the detainee.

6. A perusal of the detention record reveals that the detention order has been passed by the District Magistrate on the basis of dossier provided by the SSP, Sapore and when viewed even superficially does not record any justifiable reason to detain the detainee under the Public Safety Act. The grounds mentioned in the petition which allegedly link the detainee with the terrorist organization and the participation of the detainee whereby the detainee alleges to be alluring the youngsters to join the terrorist organization are too vague and ambiguous. Not even a single specific incident is related in the order, indicating involvement of detainee in subversive activity. The detention order is undoubtedly does not justify the detention of the petitioner. The detention order is not mere formality for detaining a person unless some material is there necessitating such an order. In *Mohd. Yousuf Rather v. State of Jammu and Kashmir and others*, (1979) 4 SCC 370 the detention order was quashed on the ground of its vagueness and ambiguity.

7. The detention order does not stand the scrutiny of law. The material which allegedly links the detainee with the acts stated to be prejudicial to the security of State being deficient, the detention order is bound to be quashed on this ground alone. Needless to say, this also deprives the detainee to make effective representation before the authorities.

8. The petition is, accordingly, allowed and the detention order impugned in the petition is quashed. The detainee is directed to be released from the detention forthwith provided he is not required in connection with any other case.

9. Disposed of.