
(1998) 05 J&K CK 0021
In the Jammu And Kashmir High Court
Case No : H.C. No. 584 of 1997

Mir Abdullah

APPELLANT

Vs

The State and Others

RESPONDENT

Date of Decision : 18-05-1998

Acts Referred:

Citation : (1998) CriLJ 4654

Hon'ble Judges : Bashir-Ud-Din, J

Bench : Single Bench

Advocate : Hassamudin, for the Appellant; R.A. Khan, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Syed Bashir-Ud-Din, J.—The detention of Mir Abdullah on 28-7-97 under orders of District Magistrate Pulwama for a period of 24

months with a view to prevent him from acting in a manner prejudicial to the security of the State (Annexure A) is challenged on following grounds

:-

2. That the detenu has not been furnished order of detention, copy of FIR or the dossier and thereby he has been prevented from making an

effective representation to the Government. The detaining authority has not applied its mind to the case and proper subjective satisfaction as

envisages by the provisions of Public Safety Act has not been drawn. The detenu though, facing trial in regular case FIR No. 105/97 has been still

held without any explanation in preventive custody. The petitioner's case has not been referred to the Advisory Board and the order of detention

has not been confirmed within time.

3. Respondents through one Dr. A.B. Sofi under Secretary to the Home Deptt. has filed counter. The detention of Mir Abdullah on 28-7-97 under

orders of District Magistrate, Pulwama for a period of 24 months, after he was taken in custody in FIR 145/97 are admitted by the respondents. It

is asserted that the grounds of detention and order of detention were served upon the detenu on 11th of August, 1997 and the contents thereof

were read over and explained to him in english/urdu which he fully understands. He was also informed of his right to make a representation to the

Govt. against the order of detention. The privileged documents were not provided to the detenu. The details of FIR have been given in the grounds

of detention. The detaining authority applied its mind to all facts and circumstances of the case and drew subjective satisfaction after considering

the arrest of detenu, recovery of arms, the petitioner's indulgence in activities subversive of and prejudicial to the security of the State. The

detaining authority has drawn subjective satisfaction. There has been no inordinate delay in execution of warrant after passing of the detention

order dt. 28-7-1997. The detenu has been taken in preventive custody on 11-8-97. The case was referred to advisory board within time on 21-8-

97 and the advisory board after according personal hearing to the detenu and, on consideration of the matter opined in favour of continued

detention and on receipt of the report the Govt. considered the matter and confirmed detention order on 17-8-97.

4. There has been no violation of any constitutional or statutory right of the detenu and all required provisions of law have been fully complied with.

The detention is not vitiated on any count.

5. Heard the counsel for the parties and considered the matter.

6. In the light of assertions in the counter affidavit in conjunction with the endorsement in the detention order and grounds of detention (Annexure

B), it cannot be concluded in the facts and circumstances of this case) that the detenu Mir Abdullah has been adversely or prejudicial affected to

make an effective representation to the Govt. against the order of detention. The services of order of detention is there. The grounds reveal that all

required details have been given. Even the required material particulars of FIR 146/97 registered at Police Station Shopian figure in a concise and

condensed form in the grounds of detention. The detenu is literate and educated

man. Therefore, cannot be said to be prejudice in any manner by not being supplied with copy of FIR or the dossier and that too when privileges is claimed in the counter by the State against such documents.

7. There is nothing on record to suggest that all aspects of the case and facts and documents have not entered subjective satisfaction of the

detaining authority while applying its mind to the detention of Mir Abdullah. There does not appear to be inordinate or unreasonable delay in

passing the order of detention and its execution. The case has been referred to the Advisory Board within prescribed time period and the orders of

confirmation have been also within stipulated time period. In fact it is not shown that there has been violation of any provisions of Public Safety

Act, in this case.

8. In the totality of circumstances and for the aforesaid reasons the detention is ruled and held as valid and not vitiated on any count. With the

result, the petition is dismissed.