
(2023) 08 J&K CK 0047

In the Jammu And Kashmir High Court

Case No : Writ Petition (Criminal) No. 428 Of 2022

Mohammad Altaf Bhat

APPELLANT

Vs

UT Of J&K And Others

RESPONDENT

Date of Decision : 24-08-2023

Acts Referred:

Citation : (2023) 08 J&K CK 0047

Hon'ble Judges : Puneet Gupta, J

Bench : Single Bench

Advocate : Zahoor A. Shah, Nadiya Abdullah, Sajad Ashraf

Final Decision : Dismissed

Judgement

Puneet Gupta, J

1. The petitioner-Mohammad Altaf Bhat has challenged the detention order No. 55/DMP/PSA/2022 dated 25.06.2022 passed by the District Magistrate, Pulwama-respondent No.2 herein, whereby he had been initially 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-Mohammad Altaf Bhat are prejudicial to the security of the State.

2. The ground taken in the petition is that the detainee is stated to be involved in FIR No. 20/2021 and FIR No. 44/2021 registered with Police Stations, Khrew and Pampore respectively. In both the cases the detainee has been granted bail as the investigating agency failed to produce the challan against the detainee within the statutory period, therefore, there is no valid reason for the respondent No.2 to pass the detention order. The subjective satisfaction is not visible in the detention order is the other ground agitated in the petition.

3. The respondents appeared through their counsel and filed the reply affidavit to the petition wherein the respondents have obviously denied the contentions raised by the detainee. The respondents have fulfilled all the criteria in the matter

is also stated in the objections.

The prayer is for dismissal of the petition. The acts of the detainee are prejudicial for national security, hence the order impugned came to be passed by the detaining authority.

4. Learned Government Advocate has produced the photo copy of the detention record.

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

6. Learned counsel appearing for the petitioner (detainee) has indeed argued that as the petitioner had been bailed out in both the FIR(s) of which the mention is made in the petition as well as the grounds of detention, therefore, the detention order is bad in law.

7. The argument of learned counsel for the petitioner though attractive does not impress the court to agree with his submission. The detaining authority has taken notice of the petitioner having been bailed out in both the FIR(s) while passing the detention order. The petitioner is otherwise stated to be involved with the terrorist organization Lashker-e-Toiba (LeT)/The Resistance Front (TRF) and providing the logistic support to the terrorists. The FIR (s) have been registered against the petitioner under UL A(P) Act amongst other offences with Police Station, Khrew and Police Station, Pampore. The detention order also records that the petitioner has been influencing the youngsters to adopt the path of terrorism and also having discreet report that he had established the contacts with the terrorists operating in the area and providing movement of security forces to the terrorist after release. The grant of default bail does not by itself mean that the detention order is bad in law. The petitioner has been bailed out in both the FIR(s) only for the reason that the investigating agency failed to present challan against the petitioner within the statutory period and not that the petitioner has been bailed out on the ground that the petitioner was not involved in terrorist activities or was innocent in any manner. The material on the record amply details out the activities which are prejudicial to the security of the State.

8. The subjective satisfaction has been recorded by the detaining authority based on cogent material and needs no interference by the court in the detention order. The petitioner has not been able to make out as how the satisfaction recorded by the detaining authority requires to be interfered being bad in law. The court cannot substitute its own opinion qua the opinion recorded by the detaining authority and sit over the satisfaction recorded as if determining the appeal.

9. No other ground is agitated in the grounds of detention for quashing the same.

10. In view of the discussion made above, the Court finds no reason to quash the detention order.

11. The present petition preferred by the detainee stands dismissed.