

**(2024) 05 J&K CK 0021**

**In the Jammu And Kashmir High Court**

**Case No : ?Habeas Corpus Petition No. 60 Of 2023**

Paramjeet Kumar Alias Jungi

APPELLANT

Vs

UT Of Jammu And Kashmir And Others

RESPONDENT

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**Date of Decision :** 03-05-2024

**Acts Referred:**

Indian Penal Code, 1860 — Section 323, 382, 458  
Arms Act, 1959 — Section 4, 25

**Citation :** (2024) 05 J&K CK 0021

**Hon'ble Judges :** Sanjay Dhar, J

**Bench :** Single Bench

**Advocate :** Anmol Sharma, Pawan Dev Singh

**Final Decision :** Dismissed

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## **Judgement**

Sanjay Dhar, J

1 The petitioner (herein after referred to as the 'detenue') has called in question order No. 09/2023 dated 28.06.2023 issued by the District Magistrate, Jammu (hereinafter referred to as the 'Detaining Authority') whereby the detenu, namely Paramjeet Kumar alias Jungi has been taken into preventive custody so as to prevent him from acting, in any manner, prejudicial to the maintenance of public order.

2 The detenue has challenged the impugned order of detention on the ground that there were no compelling circumstances for the Detaining Authority to resort to preventive detention, particularly when he was already in custody in a substantive criminal offence and he had not been enlarged on bail. It has been contended that the detenue has not been provided whole of the material forming the basis of grounds of detention, nor the grounds of detention have been explained to him in the language understood by the detenue. According to the detenue, he has not been provided the information regarding his right to make a representation to the Detaining Authority, as a result of which, he could not

make a representation against the impugned order of detention before the Detaining Authority. It has also been contended that the FIRs, which are subject matter of grounds of detention, were also subject matter of grounds of detention on the basis of which the detainee was previously taken into preventive custody and the said detention order has been quashed by this Court in an earlier round of litigation between the parties and, therefore, it was not open to the Detaining Authority to pass a fresh detention order on the same grounds.

3 The petition has been contested by the respondents by filing counter affidavit sworn in by the Detaining Authority. In the counter affidavit, it has been stated that during the span of previous twelve years, 09 different cases have been registered against the detainee, all of which, are of very serious and heinous nature. Acceding to the respondents, it is only on the basis of these heinous activities of the detainee that the Detaining Authority, after deriving subjective satisfaction on the basis of the record available before it, passed the impugned order of detention. It has been further submitted that all the constitutional and statutory safeguards have been adhered to while passing the impugned order of detention. It has been further contended that whole of the material on the basis of which the grounds of detention have been formulated, has been provided to the detainee and he was also apprised about his right to make a representation to both the Government as well as to the Detaining Authority, but he failed to make any such representation. It has also been contended that grounds of detention were read over to the detainee in Hindi and Dogri languages by the Executing Officer and that the said languages are fully understood by the detainee. In order to support their case, the respondents have produced the detention record.

4 I have heard learned counsel for the parties and perused the record of the case.

5 The first ground, that has been vehemently argued by learned counsel for the detainee is that the impugned order of detention has been passed on the basis of same grounds that were subject matter of earlier detention order which came to be quashed by this Court in terms of judgment dated 22.10.2018 passed in HCP No.12/2018. A perusal of the said judgment reveals that the detainee was previously taken into preventive detention in terms of order No. 03/2018 dated 03.04.2018 issued by the District Magistrate, Jammu. In the counter affidavit, the respondents had made reference to FIR No. 78/2011 of Police Station, Miran Sahib, FIR No. 174/14 of Police Station, R.S.Pura, FIR No. 43/15 of Police Station, R.S.Pura, FIR No. 38/2015 of Police Station, R.S.Pura, FIR No. 154/2017 of police station R.S.Pura and FIR No. 10/18 of Police Station R.S.Pura meaning thereby that the basis of passing the order of detention, which was subject matter of the aforesaid writ petition, was the aforesaid six FIRs.

6 A perusal of the grounds of detention, which are subject matter of the present case, reveals that, besides the aforesaid six FIRs, FIR No. 58/2022 of Police Station, Miran Sahib, FIR No. 64/2023 of Police Station R.S.Pura and FIR No. 87/23 of Police Station R.S.Pura also find mention in the grounds of detention.

So, it is not a case where the impugned order of detention is based upon the same FIRs that were the basis of earlier detention order, but, it is a case where, after quashing of previous detention order, the detneue has been found involved in at least three more criminal cases relating to drug trafficking, possession of illicit arms and extortion. Therefore, the contention of learned counsel for the detenue that the basis of the impugned detention order is the same that was the basis of earlier detention order, that was quashed by this Court vide judgment dated 22.10.2018, is without any merit.

6 Apart from the above, the grounds of detention bear reference to as many as 12 FIRs meaning thereby that the detenue has been found involved in as many as 12 criminal cases continuously since the year 2011 up to the year 2023. The fact that the detenue has been involved in a series of criminal activities leading to his prosecution repeatedly and continuously, prima facie, shows that ordinary law of land has not deterred him from indulging in criminal activities. The grounds of detention reveal that the detenue has been enlarged on bail in all the cases except one, namely FIR No. 87/2023 which was still under investigation as on date of formulating the grounds of detention. The said case relates to an occurrences of 01.06.2023 and pertains to offences under Sections 458/323/382 IPC and 4/25 Arms Act. Having regard to the fact that detenue has succeeded in getting bail in all other 11 criminal cases, some of which are more serious in nature, the apprehension of the Detaining Authority that the detenue may be able to secure bail in the latest FIR also, cannot be termed as 'unfounded'. Thus, in spite of the detenue being in custody at the time of passing of the impugned order of detention, the material on record clearly shows that there were compelling circumstances for the detaining authority to pass order of detention so as to prevent him from indulging in similar criminal activities.

7 It has been contended by learned counsel for the detenue that that whole of the material, forming basis of the grounds of detention, has not been provided to the detenue, nor the grounds of detention have been explained to him in the language he understands. In this regard, a perusal of the execution report reveals that the detenue has been provided as many as 226 leaves which comprises copy of detention order (01 leaf), notice of detention (01 leaf), grounds of detention (07 leaves 07 leaves), dossier of detention (31 leaves), Copies of FIRs, statements of witnesses and other related relevant documents (186 leave). The execution report bears the signatures of the detenue in token of having received these documents. Therefore, it cannot be stated that the detenue has not been provided whole of the material forming the basis of grounds of detention.

8 Similarly, contention of the detenue that he has not been explained the grounds of detention in the language he understands, is also without any merit. Not only the execution report provides that the Executing Officer has read over and explained the grounds of detention to the detenue in hindi as well as dogri languages, but even the affidavit of the Executing officer, which is available in the

detention record, also substantiates this fact. Therefore, it can not be stated that the detainee has not been made to understand the grounds of detention.

9 Another argument that has been urged by the detainee is that he has not been informed about his right to make a representation to the Detaining Authority. In this regard, a look at the detention record reveals that the Detaining Authority has addressed a communication dated 28.06.2023 to the detainee, a copy whereof has been placed on record by the detainee as Annexure-A to the writ petition. As per this communication, the detainee has been informed about his right to make a representation not only before the Government, but also before the Detaining Authority. The contention of the detainee in this regard is belied from his own documents.

10 For all the above reasons, I do not find any ground to interfere with the order of detention. The petition lacks merit and the same is, accordingly dismissed.