

**HIGH COURT OF JAMMU AND KASHMIR AND LADAKH
AT JAMMU**

HCP No. 136/2024

Reserved on: 24.04.2025
Pronounced on:05.05.2025.

Sher Mohd

..... Petitioner (s)

Through :- Mr. Asheesh Singh Kotwal
Advocate

V/s

UT of J&K and others

.....Respondent(s)

Through :- Mr Bhanu Jasrotia G.A.

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1 The petitioner, Sher Mohd, son of Habib Hajam, resident of Nagni Garh, Keshwan, presently residing at lower Pochhal, Tehsil and District Kishtwar (hereinafter referred to as “detenu”), through his wife, Famida Begum, has challenged order No.2nd/DM/K/PSA of 2024 dated 27.07.2024 (hereinafter referred to as the “impugned order”) issued by respondent No.2, the detaining authority, by virtue of which the detenu has been detained under the provisions of the Jammu and Kashmir Public Safety Act, 1978 with a view to prevent him from indulging in activities which are prejudicial to the maintenance of public order.

2 The petitioner has challenged the impugned order of detention on the ground that that there was no material on record before the detaining authority to draw a satisfaction that the detenu was indulging in activities endangering public order. It has been contended that the impugned order of

detention has been passed by respondent No.2 without application of mind. It has been further contended that the impugned order of detention has been passed on the basis of (16) daily diary reports, but copies of the same were not furnished to the detenu. It has been contended that the respondents have not assigned any reasons for rejecting the representation made by the detenu.

3 Respondent No.2, the detaining authority, has contested the writ petition by filing its reply. In its reply, it has been submitted that the detenu was involved in FIR No. 182/2024 for offences under Sections 196/299 of the BNS, but he did not mend his ways even after being booked in substantive offences. It has been further submitted that after being granted bail, the detenu continued engaging in activities that were causing communal disharmony in the District of Kishtwar as is clear from the daily diary reports furnished by the police. It has been submitted that the activities of the detenu were detrimental to the maintenance of public order and communal harmony. It has also been submitted that the detenu was involved in the slaughtering of a calf (bovine animal), and the meat of the bovine animal was recovered from his possession. He was granted bail by the learned CJM, Kishtwar, but the activities in which the detenu had indulged created feelings of hatred and disturbed religious harmony, thereby threatening public order, which prompted the detaining authority to pass the impugned order of detention. It has been submitted that whole of the material forming basis of the grounds of detention was furnished to the detenu, and that, all the imperatives, statutory and constitutional, were adhered to by the respondents while executing the impugned order of detention. The respondents, in order to lend support to their contentions, have produced the detention record.

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

5 The first contention that has been raised by the learned counsel for the detenu is that whole of the material forming the basis of the grounds of detention has not been furnished to the detenu, particularly, the copies of (16) daily diary reports, which, according to the detenu, have never been furnished to him.

6 A perusal of the grounds of detention reveals that the detaining authority, while formulating the grounds of detention, has placed reliance upon FIR No. 182/2024, in which the detenu was granted bail by the Court of learned CJM, Kishtwar, on 18.07.2024. As per the allegations made in the said FIR, the detenu was stated to have slaughtered a bovine animal, as a result of which, religious sentiments of a particular community were hurt. It also appears from a perusal of the grounds of detention that after grant of bail to the detenu, several protests and demonstrations were held by the members of a particular community within the territorial limits of different Police Stations and Police Posts across Kishtwar. The grounds of detention indicate that there was unrest and a breakdown of communal harmony in District Kishtwar. In this regard, the detaining authority has relied upon (16) daily diary reports submitted by the sponsoring agency along with its dossier.

7 A perusal of the dossier reveals that the details of the incidents which led to the registration of these (16) daily diary report are mentioned therein. The receipt relating to copy of the dossier by the detenu is not in dispute. The daily diary reports are available in the record produced by the respondents. The gist of the incidents, as mentioned in the dossier of detention, is comprehensive enough to cover the essential aspects of the daily diary

reports. Therefore, the contention of the detenu that copies of daily diary reports were not furnished to him, even if assumed to be correct, could not have affected his ability to make an effective and suitable representation against the impugned order of detention, in the facts and circumstances of the present case.

8 Apart from the above, a perusal of the execution report reveals that the detenu has received the detention order (02 leaves), notice of detention (01 leaf), grounds of detention (02 leaves) and the dossier of detention (35 leaves). The dossier of detention runs into only 07 leaves, but (16) diary reports and copy of FIR No. 182/2024 of Police Station, Kishtwar form a part of the said report. Since the detenu has received a dossier consisting of (35) pages, it can, therefore, be safely inferred that the detenu has received not only copy of the dossier, but he has also received the copies of documents accompanying the dossier viz copy of the FIR and the copies of 16 daily diary reports. Thus, it does not lie in the mouth of the detenu to contend that he has not received the copies of daily diary reports on the basis of which the grounds of detention have been formulated. The contention of the detenu in this regard is, therefore, without any merit.

9 The other contention raised by the learned counsel for the detenu is that the impugned order of detention has been passed without application of mind, as the detenu had already been booked in a substantive offence in which he was granted bail, and that there were no compelling reasons for the detaining authority to pass the impugned order of detention. In this regard, it is to be noted that the detaining authority has clearly indicated in the grounds of detention that, after grant of bail in favour of the detenu, several demonstrations and protests were held across District Kishtwar, as due to the

alleged act of the detenu, religious sentiments of a particular community were hurt. It has been recorded by the detaining authority that this situation created a threat to public order, thereby compelling it to pass the impugned order of detention. Keeping in view the fact that the detaining authority had the requisite material before it to frame such an opinion, it would not be open to this Court to undertake a judicial review of the opinion framed by the detaining authority, particularly when it is based upon the material placed before it by the sponsoring agency. The contention of the learned counsel for the detenu in this regard is, therefore, without any merit.

10 Lastly, it has been contended that though the order of rejection of representation of the detenu was conveyed to him, yet, no reasons were assigned. In this regard, it is to be noted that the requirement of law is that a detenu has to be informed about the result of his representation, but, there is no requirement in law to furnish reasons regarding the decision of the competent authority with respect to rejection or acceptance of such representation. The said contention is, therefore, without any merit.

11 For the foregoing reasons, I do not find any merit in this petition. The same is, accordingly, dismissed. The detention record be returned to the concerned forthwith.

(SANJAY DHAR)
JUDGE

Jammu
05.05.2025
Sanjeev

WHETHER ORDER IS REPORTABLE: **YES/No**