

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

Reserved on: 27.05.2024

Pronounced on: 07.06.2024

HCP No.172/2023

AQIB AHMAD RENZU

...PETITIONER(S)

Through: - Mr. Shuja ul Haq, Advocate.

Vs.

U T OF J&K & ORS.

...RESPONDENT(S)

Through: - Mr. Jehangir Ahmad Dar, GA.

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

JUDGMENT

1) The petitioner has challenged detention order No.DMS/PSA/69/2023 dated 04.10.2023, issued by District Magistrate, Srinagar (for brevity "*the detaining authority*"). In terms of the aforesaid order, *Shri Aqib Ahmad Renzu son of Bilal Ahmad Renzu resident of Sheeraz Chowk, Khanyar A/P Kralsangri Brein Nishat, Srinagar* (for short "*the detenu*") has been placed under preventive detention and lodged in Central Jail, Kotbhalwal, Jammu, in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order.

2) The petitioner has contended that the impugned order has been issued without application of mind as the allegations mentioned in the grounds of detention have no nexus with the detenu and that the same have been fabricated by the police in order to justify its illegal action of detaining the detenu. It has been contended that the grounds of detention are vague and cryptic in nature and the same are based on stale incidents

which have no proximate and live link with the detention order. It has been further contended that the safeguards provided under law have not been complied with in the instant case, inasmuch as whole of the material which formed basis of the impugned detention order has not been supplied to the petitioner. It has been further contended that the representation filed by the detinue against his detention has not been considered.

3) Upon being put to notice, the respondents appeared through their counsel and filed their reply affidavit, wherein they have disputed the averments made in the petition and insisted that the activities of detinue are highly prejudicial to the maintenance of public order. It is pleaded that whole of the material relied upon by the detaining authority has been furnished to the detinue and the same was read over and explained to him and that the detinue was informed that he can make a representation to the government as well as to the detaining authority against his detention. It is further contented in the reply affidavit that all statutory requirements and constitutional guarantees have been fulfilled and complied with by the detaining authority and that the impugned order has been issued validly and legally. The respondents have produced the detention record to lend support to the stand taken in the counter affidavit.

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

5) The first contention that has been raised by learned counsel for the petitioner is that a representation was made by the petitioner before the respondents against the impugned order but the same has not been considered. In this regard, the petitioner has placed on record a copy of

representation dated 18.12.2023 addressed to Additional Chief Secretary to Government, Home Department. In ground (s) of the petition, the petitioner has pleaded that he had made a representation against the impugned order of detention before the respondents. The respondents, in their reply, have not admitted this fact. The petitioner has not placed on record any receipt or postal receipt that would show that the said representation has actually been received by the respondents. In the absence of any such material, the receipt or otherwise of the representation against the impugned order of detention becomes a disputed question of fact which cannot be determined by this Court in exercise of writ jurisdiction. The ground urged by the petitioner in this regard is, therefore, liable to be rejected.

6) The second ground that has been urged by learned counsel for the petitioner for impugning the order of detention is that whole of the material forming basis of the grounds of detention has not been supplied to the petitioner. In this regard, a perusal of the detention record reveals that the petitioner has received copies of detention order (**01 leaf**), notice of detention (**01 leaf**), grounds of detention (**03 leaves**), dossier of detention (**09 leaves**), copies of FIR, statements of witnesses and other relevant documents (**27 leaves**) (**total 41 leaves**). This is substantiated by the receipt executed by the petitioner. The grounds of detention bear reference to as many as 07 FIRs and it seems that whole of the material relating to those FIRs has been furnished to the petitioner. It also appears that copies of other important documents, like grounds of detention, dossier of detention and warrant of detention, have also been furnished to

the petitioner. Therefore, the ground urged by learned counsel for the petitioner in this regard is belied by the detention record produced by the respondents.

7) Next it has been argued by learned counsel for the petitioner that the grounds of detention are irrelevant, vague and cryptic in nature having no proximate and live link with the impugned detention order.

8) In the above context, a perusal of the grounds of detention reveals that the alleged activities of the petitioner have been specifically mentioned therein. In the grounds of detention, reference has been made to as many as 07 FIRs lodged against the petitioner from the year 2013 to 2023 which clearly indicate the past conduct and the propensity of the petitioner to indulge in the activities which are prejudicial to the maintenance of public order. In the grounds of detention, there is a clear reference to the incidents including the details thereof in which the petitioner is alleged to have indulged. Thus, it cannot be stated that the grounds of detention are vague. The latest incident, which finds mention in the grounds of detention, pertains to the year 2023, which is proximate in time to the date of impugned detention order. The contention of the petitioner that there is no proximate link between the incidents mentioned in the grounds of detention and the date of order of detention is, therefore, contrary to the record.

9) Lastly it has been contended by learned counsel for the petitioner that the detenué is a nationalist and he has participated in many nationalist

activities, as such, he could not have been detained under the J&K Public Safety Act.

10) In the above context, it is to be noted that merely because the petitioner may have indulged in some activities which are nationalist in character does not give him a licence to indulge in criminal activities. A person indulging in criminal activities, which are prejudicial to the maintenance of public order, cannot take shelter behind nationalist activities in which he may have participated at some point of time in his career. According to the petitioner, he has been active in mainstream politics and in order to substantiate his contention, he has highlighted his activities in the events like Har Ghar Tiranga and hoisting of national flag at Char Chinari. The petitioner may have been associated with the aforesaid nationalist activities but that does not insulate him and provide him an immunity from being proceeded against for indulging in serious criminal activities which endanger the peace of the society. The contention of learned counsel for the petitioner in this regard is bound to fail.

11) For the foregoing reasons, I do not find any merit in this petition. The same is, accordingly, dismissed

12) The detention record be returned to the learned counsel for the respondents.

(Sanjay Dhar)
Judge

SRINAGAR
07.06.2024
“Bhat Altaf-Secy”

Whether the order is reportable: Yes/No