

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

Reserved on: 06.05.2025

Pronounced on: 23.05.2025

HCP No.171/2023

SHAISTA MAQBOOL

...Petitioner(s)

Through: -Mr. Faheem Indrabi, Advocate

Vs.

UT OF J&K & ANR.

...Respondent(s)

Through: -Mr. Jehangir Ahmad Dar, GA.

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

JUDGMENT

1) Through the medium of present petition, the petitioner has challenged the veracity and legality of detention order bearing No.19/DMB/PSA of 2023 dated 04.12.2023, passed by District Magistrate, Bandipora-respondent No.2, whereby *Shaista Maqbool* ("the detenué"), has been placed under preventive detention with a view to prevent her from acting in any manner prejudicial to the security of the Union Territory of Jammu and Kashmir. The order is, purportedly, passed by the detaining authority in exercise of powers conferred under Section 8 of the J&K Public Safety Act, 1978.

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 detenue and that the same have been fabricated by the police in order to justify its illegal action of detaining the detenue. 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 detenue 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 contended that the activities of detenue are highly prejudicial to the security of the State. It is pleaded that whole of the material relied upon by the detaining authority has been furnished to the detenue and the same was read over and explained to her and that the detenue was informed that she can make a representation to the government as well as to the detaining authority against her detention. It is further contended 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) Although a number of grounds have been urged by the petitioner in her petition, yet the learned counsel for the petitioner has laid much emphasis on the following grounds:

- (I) That there is similarity of language used in the grounds of detention and the dossier, which reflects non-application of mind on the part of the detaining authority.
- (II) That the representation made by the petitioner against the impugned order of detention has not been considered nor result thereof has been conveyed to the petitioner.
- (III) That the impugned order of detention is based upon stale incidents having no proximate link with the activities alleged to be prejudicial to the maintenance of security of the Union Territory of Jammu and Kashmir.
- (IV) That the grounds of detention are vague, on the basis of which it was not possible for the petitioner to make an effective representation.
- (V) That whole of the material forming basis of the grounds of detention has not been furnished to the petitioner.

6) So far as the first ground of challenge urged by learned counsel for the petitioner is concerned, it does appear that there is some similarity in the words and expressions used in the grounds of detention and the dossier of detention but merely because there is similarity in the two documents does not necessarily lead to the conclusion that there has been non-application of mind on the part of the detaining authority. Each case has to be judged on the basis of the facts and circumstances peculiar to the said case. If it is shown from the perusal of the grounds of detention that the detaining authority has analysed the material on record and has applied its mind to draw its satisfaction about the detention of a detenu, the similarity in language of the grounds of detention and the dossier submitted by the sponsoring agency, may not be of much significance. In this regard, reference may be made to the statement of law laid down by a Division Bench of this Court in the case of **Jehangir Ahmad Wani Vs. UT of J&K and Ors** (LPA No. 124/2023 decided on 01.04.2024).

7) Adverting to the facts of the present case, in the grounds of detention, the detaining authority has, after noticing the background facts which are available in the dossier submitted by the sponsoring agency, clearly analysed the same and drawn satisfaction that the ordinary

law of the land would not be sufficient to deter the petitioner from indulging in anti-national activities. The detaining authority has further noted that in order to maintain integrity in the Union Territory, it has become imperative to take recourse to the law of preventive detention, whereafter the detaining authority has recorded its satisfaction that the petitioner needs to be detained under the provisions of the J&K Public Safety Act. In the face of this position, merely because there is similarity in the language adopted in the dossier of detention and the grounds of detention, it cannot be stated that the detaining authority has acted in a mechanical manner or that it has not applied its mind. The contention of learned counsel for the petitioner is, therefore, without any merit.

8) The second ground urged by learned counsel for the petitioner with regard to non-consideration of representation of the petitioner is also without any merit. A perusal of the detention record would reveal that the petitioner had made two representations, one before the detaining authority and other before the Government. The representation made before the detaining authority has been considered and rejected by the said authority and intimation to this effect has been conveyed to the petitioner through her brother in terms of communication dated 30.01.2024. So far as the

representation made by the petitioner to the Home Department of the Government is concerned, the same, it seems, was placed before the Advisory Board and upon its consideration by the Board on 27.12.2023, the representation has been rejected. In fact, the record further shows that the petitioner has been given personal hearing by the Board before deciding her representation. Thus, it cannot be stated that the representation of the petitioner has not been considered by the respondents.

9) It has been next argued by learned counsel for the petitioner that there is no live link between the activities mentioned in the grounds of detention and the imperative need to detain the petitioner. In this regard, if we have a look at the grounds of detention, it is mentioned that the detenu was in close contact with terrorist, namely, Musaib Lakhvi who remained active during the year 2016 to 2018 in Hajin area and carried multiple terrorist activities in the said area. It is also recorded in the grounds of detention that the detenu was having love relationship with a terrorist, namely, Musaib Lakhvi who is nephew of Zakiur Rehman Lakhvi, a Pakistani terrorist and co-founder of Lashkar-e-Toiba terrorist organisation, a perpetuator of 2008 Mumbai attacks and a designated global terrorist. It is further stated in the grounds of detention that the petitioner has developed

contacts with various local and foreign terrorists who are at present operating in the UT of J&K and has been given pseudo names like Choti, Behan etc. by the terrorists. The grounds of detention go on to allege that the petitioner has established contacts with PAK based handlers, namely, Abu Zehran and Abu Hans and is providing information relating to movement of political leaders and other protected persons to these handlers through various social media encrypted applications.

10) From the above, it is clear that there are allegations that the petitioner is still involved in anti-national activities and is in touch with PAK based handlers, whose names have been clearly mentioned in the grounds of detention. Thus, it cannot be stated that the impugned detention order has been passed on the basis of past and stale incidents. There is a clear live and proximate link between the activities of the petitioner and the imperative need to detain her under the provisions of the J&K Public Safety Act.

11) The ground regarding vagueness of allegations in the grounds of detention is also without any substance. As has been already stated in the preceding paras, there are clear and specific allegations made in the grounds of detention relating to activities of the petitioner. The names of the terrorists and anti-national elements with whom the

petitioner is sharing information and has been in touch during the past are clearly indicated in the grounds of detention. Thus, it cannot be stated that the grounds of detention are vague in nature.

12) Lastly, the contention of the petitioner that she has not been furnished whole of the material forming basis of the grounds of detention is also without any merit. A perusal of the execution report, which forms part of the detention record, reveals that the petitioner has received material consisting of 30 leaves under receipt dated 06.12.2023. This material comprises copy of warrant, notice of detention, grounds of detention and other allied documents. Thus, the petitioner, it seems, has been provided whole of the material on the basis of which grounds of detention have been formulated. The petitioner has made two representations, one before the detaining authority and other before the Government which are comprehensive in nature. This clearly shows that she has been provided whole of the material forming basis of the grounds of detention which has enabled her to make detailed representations before the relevant authorities. The contention of the petitioner is, therefore, without any merit.

13) For the foregoing reasons, I do not find any ground to interfere with the impugned order of detention. The petition lacks merit and is dismissed accordingly.

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

(Sanjay Dhar)
Judge

Srinagar

23.05.2025

"Bhat Altaf-Secy"

Whether the order is reportable: Yes/No

