

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

HCP No. 12/2025

Reserved On: 16th of April, 2025.
Pronounced On: 4th of June, 2025.

Yasir Fayaz Rah

... Petitioner(s)

Through: -

Mr Faisal Javid, Advocate.

V/s

Union Territory of J&K and Ors.

... Respondent(s)

Through: -

Mr Zahid Qais Noor, Government Advocate.

CORAM:

Hon'ble Mr Justice Rahul Bharti, Judge.

(JUDGMENT)

01. Heard learned counsel for the parties.
02. Perused the pleadings of the writ petition and the record therewith. Also perused the record relating to the detention of the petitioner as produced before this Court by the learned counsel for the respondents.
03. The petitioner-Yasir Fayaz Rah, acting through his father-Fayaz Ahmad Rah, has been made to suffer twice to lose not only his personal liberty but also period of life in preventive detention on the basis

of two successive detention orders which *ex-facie* are unsustainable in the eyes of law as if it was of no concern to the respondent No.2-District Magistrate, Kulgam to mind his pen and order the preventive detention of the petitioner in following the law in letter and spirit.

04. First time, the petitioner came to be subjected to suffer preventive detention custody in terms of an order No. 09/DMK/PSA/2021 dated 18th of October, 2021 passed by the respondent No.2-District Magistrate, Kulgam in terms whereof the petitioner was detained to prevent him from acting in a manner prejudicial to the security, sovereignty and integrity of the State.

05. The said detention order had led the petitioner to suffer detention and detainment in the Central Jail, Srinagar from where he came to challenge his detention in a writ petition WP (Crl) No. 256/2021 wherein this Court by virtue of judgment dated 29th of December, 2021, i.e., within a period of two months from the date of detention order No. 09/DMK/PSA/2021 dated 18th of October, 2021, came to point out a fundamental flaw in the very text

of the detention order with respect to its very opening sentence of the detention order reading “Whereas on the basis of grounds of detention placed before me by Superintendent of Police, Kulgam”.

06. This singular statement on the part of the respondent No.2-District Magistrate, Kulgam was found seriously flawed by this Court to quash the detention of the petitioner by a two-page judgment by observing that it is the detaining authority which formulates grounds of detention and not the sponsoring agency, i.e., the Superintendent of Police who hands over prepared grounds of detention for a District Magistrate to simply affix his signature and stamp on an order of detention of a detenu.

07. Judgment dated 29th of December, 2021 led to the restoration of personal liberty to the petitioner.

08. The respondent No.2-District Magistrate, Kulgam proved the idiom “**Lightening never strikes twice**” incorrect by second time coming up with impugned preventive detention order No. 22/DMK/PSA/2024 dated 25th of December, 2024 against the petitioner directing his preventive

detention in order to prevent him from acting in a manner prejudicial to the security of the State.

09. The very opening of this second time detention order is font to font and word to word ditto with detention order No. 09/DMK/PSA/2021 dated 18th of October, 2021 beginning with “whereas on the basis of grounds of detention placed before me by the Superintendent of Police, Kulgam”.

10. It is by effect of this detention order No. 22/DMK/PSA/2024 dated 25th of December, 2024 that the petitioner has again been deprived of his personal liberty w.e.f. 31st of October, 2024.

11. This Court in terms of its order dated 8th of April, 2025 read with order dated 16th of April, 2025 came to register its serious concern with respect to the poor quality of application of mind on the part of the respondent No. 2 - District Magistrate, Kulgam thereby rendering it very evident that what is going to be the fate of preventive detention of the petitioner second time and that was not to be different than the fate of his first preventive detention order No. 09/DMK/PSA/2021 dated 18th of October, 2021 which came to be quashed and so is the present

detention order No. 22/DMK/PSA/2024 dated 25th of December, 2024 which is hereby quashed as being illegal rendering the preventive detention of the petitioner bad in the eyes of law warranting it to be set aside as soon as possible.

12. Resultantly, detention order No. 22/DMK/PSA/2024 dated 25th of December, 2024 passed by respondent No.2-District Magistrate, Kulgam read with Government Order No. Home/PB-V/2113 of 2024 dated 5th of November, 2024 and Government Order No. Home/PB-V/2222 of 2024 dated 22nd of November, 2024 as also consequent extension orders whatsoever are hereby quashed.

13. The petitioner, who is detained in Central Jail, Srinagar is directed to be released forthwith or in case if he is lodged in any other jail, upon being shifted from Central Jail, Srinagar, then from the very said jail.

14. **Disposed** of.

15. Record be returned.

(Rahul Bharti)
Judge

SRINAGAR
June 4th, 2025
"TAHIR"

i. Whether the Judgment is approved for reporting?

Yes