

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

...

WP (Crl) no.252/2019

*Reserved on: 18.03.2020*

*Pronounced on: 16.04.2020*

**Haris Rashid Langoo**

..... Petitioner(s)

Through: MrWajidHaseeb, Advocate

**Versus**

**State of J&K and another**

....Respondent(s)

Through: MrB.A.Dar, Sr. AAG and  
Ms Saba Gulzar, Assisting counsel

**CORAM: HON'BLE MR JUSTICE TASHI RABSTAN, JUDGE**

**JUDGEMENT**

1. District Magistrate, Srinagar – respondent no.2 herein, has, by Order no.DMS/PSA/72/2019 dated 16.08.2019, placed *Haris Rashid Langoo* son of *Abdul Rashid Langoo* resident of *Malik Sahib Gojwara District Srinagar* (for brevity “*detenu*”) under preventive detention to prevent him from acting in any manner prejudicial to the maintenance of public order. It is this order of which petitioner is aggrieved and implores quashment thereof.
2. Reply Affidavit has been filed by respondents, vehemently resisting the petition. Detention record has also been produced by counsel for the respondents to substantiate the statements made in reply affidavit.
3. I have heard learned counsel for parties and considered the matter.
4. Given the case set up and submissions made by counsel for parties, it would be apt to go through the detention record, produced by counsel for respondents, so as to ascertain as to whether the material, relied upon by detaining authority while issuing impugned detention order, has been furnished to *detenu* or not. The detention record, *inter alia*, contains “*Execution Report*” overleaf detention order. Perusal whereof reveals that only six leaves have been given to *detenu*.

5. Perusal of impugned detention order reveals that Superintendent of Police, Srinagar, vide his letter no.LGL/Det-3127/6351-54 dated 10.08.2019, produced material record, such as dossier and other connected documents in respect of detenu and it was only after its perusal that impugned detention order has been issued by detaining authority. Grounds of detention make reference of three FIRs to have been registered against detenu. Involvement of detenu in aforesaid cases appears to have weighed with detaining authority, while making detention order. The record, as noted above, does not indicate that copies of aforesaid First Information Reports, statements recorded under Section 161 Cr.P.C. and other material collected in connection with investigation of aforesaid cases, was ever supplied to detenu. The abovementioned material, thus, assumes significance in the facts and circumstances of the case. It needs no emphasis, that detenu cannot be expected to make a meaningful exercise of his Constitutional and Statutory rights guaranteed under Article 22(5) of the Constitution of India and Section 13 of the J&K Public Safety Act, 1978, unless and until the material on which detention order is based, is supplied to detenu. It is only after detenu has all the said material available that he can make an effort to convince detaining authority and thereafter the Government that their apprehensions concerning activities of detenu are baseless and misplaced. If detenu is not supplied the material, on which detention order is based, he will not be in a position to make an effective representation against his detention order. Failure on part of detaining authority to supply material, relied at the time of making detention order to detenu, renders detention order illegal and unsustainable. While saying so, I draw the support from the law laid down in *ThahiraHaris Etc. Etc. v. Government of Karnataka*, AIR 2009 SC 2184; *Union of India v. Ranu Bhandari*, 2008, Cr. L. J. 4567; *DhannajoyDass v. District Magistrate*, AIR, 1982 SC 1315; *Sofia GulamMohdBham v. State of Maharashtra and others* AIR 1999 SC 3051; and *Syed AasiyaIndrabi v. State of J&K &ors*, 2009 (I) S.L.J 219.

6. The Supreme Court in *Abdul Latief Abdul Wahab Sheikh v. B.K. Jha, 1987 (2) SCC 22* has made it clear that it is only the procedural requirements, which are the only safeguards available to detenu, that is to be followed and complied with as the Court is not expected to go behind the subjective satisfaction of detaining authority. In the present case, the procedural requirements, as discoursed and noted above, have not been followed and complied with by respondents in letter and spirit and as a corollary thereof, petition requires to be allowed.
10. For the foregoing reasons, this petition is disposed of and detention Order no.DMS/PSA/72/2019 dated 16.08.2019, passed by District Magistrate, Srinagar, quashed. Respondents, including Jail Superintendent concerned, are directed to release the detenu forthwith, provided he is not required in any other case. **Disposed of.**
11. Registry to return detention record to learned counsel for respondents.

**(TashiRabstan)**  
**Judge**

**Srinagar**  
16.04.2020  
*Ajaz Ahmad, PS*

Whether the order is reportable: No.