



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

Reserved on : 23.04.2026
Pronounced on : 03.06.2026.
Uploaded on : 04.06.2026

HCP No. 156/2025

**Makhan Din, Age 45 years,
S/o Sh. Hakam Din alias Hukam Din,
R/o Narsoo, Tehsil Chenani, District Udhampur
at present lodged Central Jail, Kotbalwal, Jammu.**

.....Petitioner

Through: Mr. Rajnesh Singh Parihar, Advocate

Vs

- 1. Principal Secretary to the Government, Home Department, Civil Secretariat, Jammu.**
- 2. Divisional Commissioner, Jammu.**
- 3. Senior Superintendent of Police, Udhampur.**
- 4. Superintendent, Central Jail, Kotbalwal, Jammu.**

..... Respondents

Through: Mrs. Monika Kohli, Sr. AAG.

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

01. Heard learned counsel for the petitioner as well as for the respondents.

02. Perused the writ pleadings.



03. The detention record produced also scanned thoroughly.

04. The petitioner came forward with the present writ petition filed on **03.11.2025**, being aggrieved of his preventive detention custody inflicted upon him by an order **No. PITNDPS 46 of 2025** dated **19.07.2025** passed by the respondent No. 2 – Divisional Commissioner, Jammu in exercise of powers under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (in short **“PIT NDPS Act, 1988”**) read with SRO 247 dated 27.07.1988 upon finding the petitioner’s alleged reported activities to be falling within the mischief of section 3 of PIT NDPS Act, 1988.

05. The petitioner came to be taken into custody on **27.09.2025** and confined to the Central Jail Kot Bhalwal, Jammu.

06. The case for preventive detention of the petitioner was put into process by the respondent No. 3 – Sr. Superintendent of Police (SSP), Udhampur, who vide his letter **No. Conf./PITNDPS/536-39** dated **15.07.2025** submitted a dossier of alleged state of activities of the



petitioner reckoning which the petitioner was held to be a case for suffering preventive detention under PIT NDPS Act, 1988.

07. In his dossier, the respondent No. 3 – Sr. Superintendent of Police (SSP), Udhampur exhibited the petitioner's criminal and bad antecedents by reference to **FIR No. 188/2024** under section 8/21/22 of Narcotic Drugs & Psychotropic Substances Act, 1985 of the Police Station Chenani followed by four Daily-Diary Entries made from **05.02.2025** to **19.06.2025** all by the Police Station Chenani.

08. In the dossier, the fact of release of the petitioner on bail by reference to **FIR No. 188/2024** also came to be mentioned.

09. Acting on said dossier, the respondent No. 2 – Divisional Commissioner, Jammu felt persuaded that a case was made out to order the preventive detention of the petitioner and, thus, formulated the grounds of detention to hold that on the basis of the reported state of activities of the petitioner, he deserves to suffer preventive detention and, accordingly, passed the detention order **No. PITNDPS 46 of 2025** dated **19.07.2025**.



10. The petitioner has come assailing the detention on number of grounds as set out in para 16 (a) to (l).

11. Highlight ground of challenge is the fact that before service of the dossier from the end of the respondent No. 3 – Sr. Superintendent of Police (SSP), Udhampur to the respondent No. 2 – Divisional Commissioner, Udhampur by virtue of communication **No. Conf./PITNDPS/536-39** dated **15.07.2025**, the Prosecution had solicited rejection of the petitioner's bail granted in **FIR No. 188/2024** by an application made on **03.02.2025** before the court of Additional Sessions Judge (Special Judge under NDPS Act), Udhampur which came to be rejected by virtue of an order dated **05.04.2025**.

12. In the entire dossier, there is not even a whisper of any such exercise undertaken for seeking cancellation of the bail in favour of the petitioner. Thus, when by the time of passing of order dated **05.04.2025**, the respondent No. 3 – Sr. Superintendent of Police (SSP), Udhampur was yet to frame his dossier against the petitioner but still omitted to bear mention of such an important aspect related to suffering rejection of cancellation of bail *qua* the accused, then



obviously the respondent No. 2 – Divisional Commissioner, Jammu was not fully fed with the facts.

13. While on one hand cancellation of bail did not succeed but on other hand the petitioner came to be subjected to preventive detention custody is a situation which is antithetical to each other.

14. In fact, from the perusal of detention record produced for the inspection of this Court, this Court finds that the detention record bears an application **No. 142/S-1/PSC** dated **31.01.2025** moved for the purpose of cancellation of bail but still said aspect was not made a mention in the dossier is a pointer to the fact that the respondent No. 3 – Sr. Superintendent of Police (SSP), Udhampur did not want to highlight the aspect that exercise for seeking cancellation of bail has resulted in failure.

15. In the light of the aforesaid serious lacuna attending the processing of the case against the petitioner for his preventive detention, this Court finds that the preventive detention imposed upon the petitioner deserves to be quashed and is, accordingly, quashed.



16. The detention order **No. PITNDPS 46 of 2025** dated **19.07.2025** read with confirmation order **No. Home-PB-V/1951 of 2025** dated **28.10.2025** are hereby quashed. The petitioner is directed to be restored to his personal liberty with immediate effect by the Superintendent of the concerned jail.

17. ***Disposed of.***

18. Detention record to be returned back to the counsel representing the respondents.

(RAHUL BHARTI)
JUDGE

JAMMU
03.06.2026
Muneesh

Whether the judgment is speaking : Yes / No

Whether the judgment is reportable : Yes / No