

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

WP (Crl) 9/2024

Ghulam Mohammad Sheikh

... **Petitioner**

Through: Mr. Mohd. Rafiq Bhat, Advocate

Vs.

UT of J&K and others

... **Respondents**

Through: Mr. Bikdramdeep Singh, DAG

CORAM: -

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

08.05.2026

1. The petitioner has filed the present petition seeking, inter alia, quashing of the history sheet and removal of his name from Surveillance Register No. 10 maintained at Police Station Beerwah, Budgam, on the ground that such action of the respondents, being arbitrary, is not in conformity with the provisions of the J&K Police Rules, 1960. It is stated that the petitioner was arrested by the police station concerned and subsequently detained in connection with FIR No. 52/2023. His name came to be entered in Surveillance Register No. 10 under Rule 698 of the J&K Police Rules, 1960, and he was thereafter

declared a history-sheeter without affording him any opportunity of being heard.

2. It is averred that the petitioner has been implicated in multiple FIRs primarily on account of political vendetta and has been falsely implicated in several baseless and manipulated cases, though he has never been convicted in any case. It is further submitted that challans have been presented in all the FIRs registered against the petitioner and that he has already been enlarged on bail by the competent courts. It is further pleaded that no opportunity of hearing was granted to the petitioner prior to entering his name in Surveillance Register No. 10 and that there existed no reasonable belief on the part of the police necessitating such entry. It is also contended that the subjective satisfaction, which is sine qua non for declaring a person a history-sheeter, was not arrived at by respondent No. 3.
3. The respondents have filed their reply there it is stated that FIR No. 52/2023 came to be registered against the petitioner on the basis of a complaint lodged by a private person alleging that he had been duped by the petitioner of an amount of Rs. 2,80,000/- . The respondents have alleged that the petitioner is a habitual offender who fraudulently dupes gullible members of the public and is involved in multiple FIRs for offences punishable under Sections 420, 376, 354 and 467 RPC/IPC. It is stated that at least

six FIRs stand registered against the petitioner in different police stations wherein challans have been presented before the competent courts of law. It is further submitted that the initiation of surveillance proceedings and maintenance of a history sheet against the petitioner has been undertaken strictly in accordance with the provisions of the J&K Police Rules, 1960 and other statutory guidelines issued by the competent authorities. It is also submitted that the petitioner has already been charge-sheeted in FIR No. 52/2023 and that the criminal trial is presently underway.

4. Heard learned counsel for the parties and perused the record.
5. Before advertng to the controversy involved in the present petition, it would be appropriate to notice the relevant provisions of the J&K Police Rules, 1960 governing the field. **Rule 698** pertains to Surveillance Register No. 10 and provides that every police station shall maintain a Surveillance Register. Part I thereof contains the names of persons residing within the local jurisdiction of the police station who fall within the categories specified therein, including proclaimed offenders under Section 87 CrPC, released convicts in respect of whom orders under Section 565 CrPC have been passed, convicts whose sentence has been conditionally remitted under Section 401 CrPC, and persons restricted under the Habitual Offenders (Control and

Reforms) Act, 1956. Part II empowers the Superintendent of Police, in his discretion, to enter the names of persons convicted thrice or more for offences mentioned in Rule 681, persons reasonably believed to be habitual offenders or receivers of stolen property whether convicted or not, and persons bound down under Sections 109 and 110 CrPC. **Rule 699** governs entries into and cancellation from the Surveillance Register. The Rule provides that the register shall be maintained by the Officer In charge of the police station personally or through an Assistant Sub-Inspector, and that no entry shall be made in Part I except under the orders of a Gazetted Officer. Ordinarily, before the name of a person is entered in Part II, a history sheet is required to be opened. The Rule further mandates that where the Superintendent of Police proposes, either suo motu or on the report of a subordinate officer, to enter the name of a person in Register No. 10, he shall hear the objections of such person and, upon satisfying himself fully, pass an order directing such entry. **Rule 702** relates to preparation of a history sheet and requires that the same be prepared with great care either by the Officer In charge of the police station himself or by an experienced Assistant Sub-Inspector acting under specific orders. The Rule contemplates detailed recording of the description of the individual, his associates, means of livelihood, property, nature

of offences to which he is allegedly addicted, methods employed, localities frequented and other relevant particulars.

6. A plain reading of the aforesaid provisions makes it manifest that the object underlying the opening of a history sheet is prevention of offences by persons allegedly addicted to criminal activities. The Rules prescribe not only the categories of persons in respect of whom such action may be taken, but also the procedure and safeguards to be followed while doing so.
7. A Coordinate Bench of this Court, while interpreting Rule 702 of the J&K Police Rules in ***Bashir ud Din vs. UT of J&K and others*** [WP(Crl) No. 37/2023 decided on 15.09.2023], observed that preparation of a history sheet cannot be a mechanical exercise and that there must be a deliberate decision reflecting due application of mind to relevant material, since branding a person as a history-sheeter carries grave and adverse consequences. The Court further held that surveillance must be founded upon sufficient material and exercised strictly within the parameters of law. The said judgment further emphasizes that the subjective satisfaction of the competent authority must be founded upon reasonable belief based on objective material and that arbitrary exercise of such power would seriously impinge upon the right to privacy and dignity guaranteed under Article 21 of the Constitution of India.

8. What emerges from the aforesaid legal position is that great care and caution is required to be exercised before branding a person as a history-sheeter and entering his name in the surveillance register. Though surveillance of a person is permissible in accordance with law, the same cannot be undertaken in derogation of the individual's right to dignity and personal liberty. The entry of a person's name in the surveillance register must necessarily be preceded by due application of mind and formation of subjective satisfaction strictly in accordance with the provisions of the J&K Police Rules.
9. The formation of subjective satisfaction regarding a person being habitually addicted to crime must rest upon reasonable belief founded on objective and verifiable material. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in ***Dhanji Ram Sharma vs. Superintendent of Police, North District Delhi Police***, AIR 1966 SC 1766, wherein it was held that mere belief is not sufficient and that the belief must be reasonable and based upon reasonable grounds.
10. In the present case, it appears that the petitioner's name has been entered in Surveillance Register No. 10 and a history sheet has been opened in his name without issuance of any notice or affording him a reasonable opportunity of hearing, as contemplated under the Rules.

11. The Hon'ble Supreme Court in ***Malak Singh & Ors. vs. State of Punjab & Haryana & Ors., (1981) SCC 420***, while dealing with the scope of surveillance under the Police Rules, observed that though discreet surveillance over habitual offenders may be necessary for prevention of crime, the same cannot be permitted to transgress the fundamental rights guaranteed under Articles 19 and 21 of the Constitution. The Supreme Court further held that the police cannot indiscriminately enter names in the surveillance register and that surveillance must remain unobtrusive and strictly within the limits prescribed by law.
12. Having regard to the aforesaid facts and circumstances and the settled position of law, this Court is of the considered opinion that the entry of the petitioner's name in the Surveillance Register appears to have been made without recording any cogent reasons or drawing the requisite subjective satisfaction. No material has been brought on record demonstrating formation of a reasonable belief that the petitioner is a habitual offender or a person habitually addicted to crime so as to justify continuation of his name in the Surveillance Register.
13. Consequently, for the reasons stated hereinabove, the present petition deserves to be allowed and is accordingly allowed. The history sheet opened in the name of the petitioner is quashed.

