

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (Crl) no. 724/2022

Altaf Ahmad Waza

Petitioner(s)

Through: Mr Aijaz Ahmad Chesti, Advocate

v.

Union Territory of JK and others

Respondent(s)

Through: Mr Sajad Ashraf, GA

CORAM:

Hon'ble Ms Justice Moksha Khajuria Kazmi, Judge

ORDER

09.11.2022

By this petition, the petitioner seeks quashing of the detention Order No. 21/DMB/PSA/2019 dated 06.08.2019, hereinafter for short as impugned detention order, issued by the District Magistrate, Baramulla, at pre-execution stage.

It is urged by the learned counsel for the petitioner that the petitioner voluntarily made himself available to the respondents on 6th August, 2019 and he was taken into custody and because of his illness he was taken to the Chest Disease hospital in Srinagar and later on shifted to Jammu for specialized treatment, therefore, the impugned detention order was quite open to be executed as the petitioner was very much available with the respondents, however, the respondents chose not to do that. Therefore, the veracity of the impugned detention order is challenged being unsustainable in law. The learned counsel would submit that the impugned order of detention is of the year 2019 and there is considerable delay in the execution of said order. He referred to and relied upon a judgment of the Hon'ble Supreme Court delivered in case titled *Ramesh v. State of Gujarat and others* reported as *AIR 1989 SC 1881*

Considered the submissions made.

The petitioner has succeeded in making out a *prima facie* case for grant of ad-interim relief in his favour.

Admit. Notice returnable within four weeks. Requisites of service within one week. In the meanwhile, subject to objections from the other side and till next date before the bench, the impugned detention order is directed not to be given effect.

List on 13.12.2022.

(Moksha Khajuria Kazmi)
Judge