

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

(Through Virtual Mode)

WP (Crl) no. 104/2020

Hilal Akbar Lone

..... Petitioner(s)

Through: -

M/s Shuja-ul-Haq, T. A. Lone, Advocates.

V/s

Union Territory of JK and others

Through

Mr. B. A. Dar, Sr. AAG

..... Respondent(s)

CORAM:

Hon'ble Mr Justice Ali Mohammad Magrey, Judge.

ORDER

14.08.2020

By the medium of present petition, the petitioner has prayed for following reliefs:

- a) By issuance of writ, order or direction one in the nature of Habeas Corpus, the issued by Respondent no. 1 to 4 be commanded to produce the petitioner before this Hon'ble court and upon his production before this Hon'ble court, the petitioner be set at liberty.
- b) By issuance of writ, order or direction one in the nature of mandamus, the respondents be commanded to pay compensation to the tune of Rs. 1.00 Crores for the illegal detention of the petitioner since 18.6.2020
- c) Any other relief which this Hon'ble court may deem fit and proper under the circumstances of the case may also be passed in favour of the petitioner and against the respondents."

The petitioner has given the details of his custody by stating that he was taken into custody by the Police Station Sumbal Bandipora on 10.08.2019 under section 107 and 151 of the Cr.P.C and lodged at SKICC (Sher-e-Kashmir International Conference Centre) Centaur Hotel which had been converted into a sub-jail till November, 2019. It is further stated that subsequently he came to be detained in terms of the provisions of the Public Safety Act in terms of Order no. 67/DMB/PSA of 2019-2020 dated 9.02.2020 which had subsequently been revoked on 18th June, 2020. Petitioner states in his petition that from 18th June, 2020 he is under illegal detention at his official residence at Tulsi Bagh Srinagar, as the security guards posted there are not allowing him to move outside.

The petitioner claims to be an actively practicing and reputed lawyer of the J&K having served the erstwhile State as Deputy Advocate General in the year 2009 and subsequently as Additional Advocate General in the year 2012. It is stated in the petition that the father of the petitioner has won the Parliamentary Election from Baramulla Constituency in May 2019 and the petitioner has been considered to be the most probable MLA candidate by the respondents. Petitioner has further claimed to be associated with National Conference which is a registered and established political party of the J&K since long. He claims to be not allowed to venture out of his home thereby violating his constitutional rights guaranteed in terms of Article 21 of the Constitution of India. Hence the petition.

Notice was issued on 4.8.2020 and the respondents have appeared and filed report through the Inspector General of Police, Kashmir. The respondents deny the allegations contained in the petition qua wrongful confinement of the petitioner. It is stated therein that no order either under

preventive or substantive law has been issued against him. The assertion of petitioner's father being a parliamentarian and he being a probable MLA candidate has been reiterated by the respondents also. It is stated further that the petitioner, being a protected person, has to approach the security agency before making any movement as he has threat to his life. It is stated that the petitioner who is availing security cover because of his political involvement has been advised like other protected persons not to visit any vulnerable area without informing the concerned authorities so that property security arrangement are made for the safety and the security for the petitioner. The allegation of detention has been termed to be false, frivolous and baseless. Paragraph 3 and 4 of the report being relevant are taken note of hereunder:

“3. That the status of the petitioner is that of a protected person and as a corollary of it there will be always police personnel around him acting as a security cover so as to fend off any possible attack on his person. Security personnel are also deployed at his residence. The security personnel acting as his PSOs and residential guard together may not be understood as his having been taken into any kind of custody. It is emphatically denied that currently any detention order is in force against him. The answering respondents are functioning strictly with the paramters of law.

4. There is no infringement or brazen violation of the revocation of the detention order passed by the government setting the petitioner free so is claimed in the petition. The respondents have shown utmost respect to the

revocation order and obedience to it, released the petitioner forthwith.”

Mr Shuja-ul-Haq, learned counsel for the petitioner, seeks time to respond to the factual report of the respondents.

Prayer is allowed.

List on Monday i.e. 17th August, 2020.

Copy of the order be provided to the learned counsel for the parties. Mr Shuja, learned counsel for the petitioner, submits that he is not able to open the copy of the factual report because of poor connectivity. He shall be at liberty to approach the registry and collect the hard copy of the response today itself. Registry shall ensure his entry in the high court premises for the purpose.

SRINAGAR
14.08.2020
Amjad Lone PS



(Ali Mohammad Magrey)
Judge