

Shabnum Begum vs Ut Of J&K & Ors on 18 November, 2022

Sr. No. 78

HIGH COURT OF JAMMU AND KASHMIR AND LADAKH
AT JAMMU

WP (Crl) No. 76/2022

Shabnum Begum

...Petitioner(s)/Applicant(s)

Through: Mr. Mohsin Bhatt, Adv.

v/s

UT of J&K & Ors.

.... Respondent(s)

Through: Mr. Bhanu Jasrotia, GA.

CORAM: HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

ORDER

18.11.2022

1. Petitioner, through the medium of this instant writ petition filed under Article 226 of the Constitution of India, seeks quashment of her detention passed by respondent no. 2-District Magistrate, Kishtwar in terms of J&K Public Safety Act, 1978, vide Order No. 01/DM/K/PSA dated 07.11.2022.

2. Learned counsel for the petitioner submits that the petitioner who had been taken into custody in connection with an FIR No. 232/2022 registered with Police Station Kishtwar for the commission of offences punishable under Sections 363/364 IPC and the moment she was admitted to bail by the competent court, the detaining authority passed the detention order against the petitioner. The impugned detention order has been challenged on many counts.

3. Mr. Bhanu Jasrotia, learned GA who is incidentally present in the Court appears on behalf of the respondents and opposed the plea of the petitioner.

4. The petitioner had been arrested by Kishtwar Police when she was found to have adopted a strange modus operandi to execute her criminal intent by following a lady having six months baby with her in the hospital and taking benefit of the absence of that lady, she lifted her six months old baby and kidnapped her which fact was supported by the CCTV footage at the hospital. This news is stated to have shocked whole of the District Kishtwar in general and those parents whose children were out on their daily routine started running towards their homes/schools with fear of strange emotions caused by anticipation of danger to their minor children. The kidnapped child was later

recovered from the illegal possession of the petitioner. The bail plea of the petitioner was rejected to the Court of learned Chief Judicial Magistrate, Kishtwar vide order dated 12.10.2022. However, on a fresh application moved to the Court of learned Principal Sessions Judge, Kishtwar, the petitioner was admitted to interim bail upto 16.11.2022.

5. The respondent no. 2-District Magistrate, Kishtwar based on a dossier prepared by SSP Kishtwar, passed the impugned detention order to prevent the petitioner from indulging into such activities which are harmful/prejudicial to the maintenance of public order.

6. The petitioner within less than 10 days of passing the order has moved this petition though she had been asked by the detaining authority to make a representation against her order of detention to him and to the government, if she so desired. Such a representation could be filed within the statutory period.

7. The petitioner should have availed the remedy of filing the representation as an opportunity had been granted to her so that the revocation of the detention order could be considered by the detaining authority or the government.

8. On a consideration of the matter, it appears that the petition has been filed at a very premature stage and is liable to be rejected at this stage. The petition, for the aforesaid reasons, is thus, dismissed at this stage. However, the petitioner shall be at liberty to approach this Court again in case the cause survives, after her filing of the representation as referred hereinabove and consideration thereof.

9. The Writ Petition is thus disposed of as dismissed (MA CHOWDHARY) JUDGE Jammu
18.11.2022 Abinash