

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

HCP No. 80/2025

Date of pronouncement: 20.11.2025

Date of uploading: 24.11.2025

Rahat Iqbal @ Riya

S/o Abdul Majeed,
R/o Khablan, Tehsil Thanamandi,
District Rajouri

.....Appellant(s)/Petitioner(s)

Through his brother

Mohd Nazim

S/o Abdul Majeed

R/o Khablan, Tehsil Thanamandi,
District Rajouri.

Through: Mr. Sheikh Altaf Hussain, Advocate

vs

1. Union Territory of J&K through its
Financial Commissioner, Deptt. of Home
(Detention Cell PBV-Section) Civil
Secretariat, Jammu/Srinagar.

2. The District Magistrate, Rajouri

3. The Senior Superintendent of Police,
Rajouri.

..... Respondent(s)

Through: Mr. Dewakar Sharma, Dy. AG

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE
JUDGMENT (ORAL)

1. In the instant petition, filed under Article 226 of the Constitution of India, the petitioner herein has challenged detention order No. DMR/INDEX/22 of 2023 dated 14.09.2023 [for short **“the impugned order”**] passed by District Magistrate, Rajouri, respondent No. 2 herein [for short **“the Detaining Authority”**] under and in terms of the Provisions of J&K Public Safety Act, 1978 [for short the **“Act of 1978”**].

2. The impugned order has been challenged on multiple grounds by the petitioner urged in the petition.
3. Counter affidavit has been filed by the respondent No. 2 to the instant petition, wherein the petition is being opposed on the premise that the Senior Superintendent of Police, Rajouri-Respondent No. 3 herein vide communication dated 08.07.2023 furnished dossier No. PA/PSA/2023/6841-44/C to the detaining authority herein making out a case for detention of the petitioner under preventive law for his being involved in criminal activities highly prejudicial to the maintenance of public order, while stating further that the petitioner has a desperate character habitual of indulging in acts of violence and involved in numerous criminal cases making the general public very apprehensive of his activities as also under threat and fear and also the involvement of the petitioner in seven FIRs pertaining to the offences of theft and burglary etc., the preventive detention of the petitioner became the need of the hour, whereupon in terms of order dated 14.09.2023, the petitioner was ordered to be detained, however, the said order could not be executed on account of absconding of the petitioner and that the petitioner instead filed HCP No. 59/2024 before this Court, wherein on 01.05.2024 the execution of detention order was stayed and finally the petition came to be dismissed for non-prosecution on 04.12.2024, whereafter the petitioner came to be taken into custody under preventive law in terms of the impugned order and subsequent to taking him into custody under preventive law, the petitioner came to

be furnished the order of detention, the grounds of detention as also the entire material relied upon by the Detaining Authority for his detention and the same were read over and explained to him in Urdu/Hindi language, which the petitioner understood, in lieu whereof, the petitioner subscribed his signatures as well and also came to be informed that he can make a representation against his detention and that the order of detention came to be passed validly and legally against the petitioner after thorough examination of records and material by the Detaining Authority.

Heard counsel for the parties and perused the record.

4. The counsel for the petitioner, while making his submissions in support of the case setup in the instant petition, would confine the challenge to the impugned order firstly on the ground that although the Sponsoring Agency being SSP Rajouri had furnished dossier to the Detaining Authority on 08.07.2023, yet the Detaining Authority delayed the issuance of the order of detention without any justified reasons for more than 60 days and passed the detention order on 14.09.2023, thus vitiating the impugned order more so in absence of any satisfactory explanation thereof manifestly suggesting that there was no emergent or imperative need for detention of the petitioner under preventive law.
5. Learned counsel for the petitioner would also urge that the petitioner has been detained under preventive law owing to his alleged involvement in seven FIRs referred in the grounds of detention, which

FIRs are stale in point of time *qua* the impugned order of detention dated 14.09.2023 lacking any proximate and live nexus and link between the alleged involvement of petitioner in the said FIRs and the impugned order.

6. It is also urged by the counsel for the petitioner that a representation came to be submitted by him against the impugned order on 23.04.2024 which, however, came to be belatedly rejected by the respondents.
7. On the contrary, the counsel for the respondents, while rebutting the submissions of counsel for the petitioner, would rely upon the case setup on the counter affidavit and would insist for dismissal of the petition.
8. Insofar as the aforesaid first plea of the counsel for the petitioner is concerned, it is not in dispute that the Sponsoring Agency-SSP Rajouri have had submitted the dossier and other allied material to the Detaining Authority on 08.07.2023 and the Detaining Authority ordered the preventive detention of the petitioner on 14.09.2023. No reasons much less cogent reason or a plausible explanation has been offered either in the impugned order of detention or else in the counter affidavit filed by the respondents as to the delay in passing of the impugned order.

Law in this regard is no more *res integra* and stands settled by the Apex Court in series of judgment including in case titled as “*Mohd. Nazir Vs. UT of J&K and Ors.*” being HCP No.

135/2024 decided on 29.08.2025, wherein it has been, *inter alia*, held that unexplained inordinate delay in passing a detention order after the receipt of report of dossier from the Sponsoring Agency without there being any plausible explanation thereto would suggest that there was no urgency or necessity for detaining the detenu under preventive detention, thus, would vitiate the detention order. In the instant case, as has been noticed in the preceding paras while risking repetition the dossier and other allied material stands furnished by the SSP, Rajouri to the Detaining Authority on 08.07.2023 and after a period of more than 60 days the Detaining Authority has issued the impugned order of detention on 14.09.2023 without offering any plausible justified explanation thereto, thus, vitiating the impugned order on this ground.

9. Insofar as the aforesaid next plea of the counsel for the petitioner is concerned, indisputably the grounds of detention drawn and framed by the Detaining Authority for the purposes of detaining the petitioner under preventive law reveals the involvement of the petitioner in seven FIRs of the year 2015, 2018 & 2019 and the Detaining Authority, admittedly, as is evident from the grounds of detention, has ordered the preventive detention of the petitioner owing to his involvement in the said FIRs while passing the impugned order dated 14.09.2023.

A closer examination on the grounds of detention, as also the detention record produced by the counsel for the respondents,

nowhere suggest that besides the involvement of the petitioner in the said FIRs, the petitioner have had been found involved in any activity post the registration of the last FIR in the year 2019, which activity either was found to be prejudicial to the security of the State or else to the maintenance of public order. No proximate live link and nexus is apparent between the involvement of the petitioner in the said FIRs and the passing of the impugned order, thus, rendering the impugned order legally unsustainable.

10. Insofar as the aforesaid last plea of the counsel for the petitioner is concerned, perusal of the detention record tends to show that a representation have had been made by the petitioner against this detention on 23.04.2024, which representation as per the record has been disposed of on 19.06.2025 i.e. after a period of approximately 14 months. The said representation, however, as per the record has been filed by the petitioner prior to the execution of the impugned order, which representation as per the detention record has been received by the respondent on 23.04.2025 as is evident from the communication addressed by Additional Secy. to Government to the Director General of Police dated 02.05.2025 and had been forwarded to the Additional Director General of Police for comments although, in law, the said representation ought to have been decided by the Detaining Authority itself or else the Government. The said representation seemingly has been considered by Additional Director of Police who in terms of

communication dated 09.06.2025, addressed to the Principal Secretary to the Government, Home Department has stated that the representation does not deserves consideration as of now, manifestly signifying that the respondents have violated the mandate of Article 22 (5) of the Constitution of India in this regard with impunity.

11. Viewed thus, for what has been observed, considered and analysed hereinabove, the impugned order does not sustain in law.
12. Accordingly, petition is **allowed** and impugned order bearing No. DMR/INDEX/22 of 2023 dated 14.09.2023 is quashed with a direction to the respondents, including the concerned Jail Authority to release the petitioner from the preventive detention forthwith unless the petitioner is required in any other case.
13. The detention record produced by the counsel for the respondents is returned back in the open Court.
14. **Disposed of.**

(Javed Iqbal Wani)
Judge

Jammu
20.11.2025
Vishal Sharma

Whether the order is reportable:	Yes/No
Whether the order is speaking:	Yes