

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(Crl) No. 123/2023

Reserved on: 11.12.2025

Pronounced on: 17.12.2025

Uploaded on: 20.12.2025

*Whether the operative part or full
judgment is pronounced-**Full Judgment***

Ashiq Hussain Wani

...Petitioner(s)

Through: Mr. N.A.Ronga, Advocate.

Vs.

Union Territory of J&K & Anr.

...Respondent(s)

Through: Mr. Furqan Sofi, GA vice
Mr. Mohsin Qadri, Sr.AAG.

CORAM:HON'BLE MR. JUSTICE M. A.CHOWDHARY, JUDGE

JUDGMENT

1. The petitioner, in terms of the detention order No. **DMS/PSA/116/2022 dated 12.09.2022** (for short 'impugned order'), has been detained in the interest of security of the UT of J&K by District Magistrate Srinagar-Respondent No.2 (for short 'detaining authority') in exercise of powers conferred on him under **Section 8 of the J&K Public Safety Act, 1978**. The said detention order has been challenged through the medium of present petition, allegedly being in breach of the provisions of **Article 22(5)** of the Constitution of India.
2. The petitioner has pleaded in the petition, that the detenu was implicated in a case FIR No.137/2022 without any justification and was placed in illegal confinement. It is being contended that the allegations/grounds of detention are vague and mere assertions of the

detaining authority and no prudent man can make an effective representation against these allegations. Furthermore, it is stated that the allegations whose mention is made in the grounds of detention have no nexus with the detainee. In addition, it is stated that the detaining authority has not prepared the grounds of detention by itself, whileas, relied the impugned detention order upon dossier only.

3. This court, as an interim measure, had stayed the execution of the impugned order, while directing the respondents to file reply to the petition.
4. Respondents in their reply affidavit have stated that the grounds of detention are precise, proximate, pertinent and relevant. There is no vagueness or staleness in the grounds coupled with definite indications as to the impact thereof, which has been precisely stated in the grounds of detention. Further it is contended that the grounds of detention give complete account of the activities of the detainee which are highly prejudicial for maintenance of security of the UT of J&K, as such, there was no option left but to order detention of the detainee under Public Safety Act.
5. The main plea of learned counsel for the petitioner is that the allegations made in the grounds of detention are vague, non-existent and no prudent man can make a representation against such allegations and passing of detention on such grounds is unjustified and unreasonable. All the allegations levelled against the detainee are far from reality and that the detainee is not involved in any unlawful activity, so as to justify his preventive detention.

6. Learned counsel for the respondents, ex-adversus, submits that there is no vagueness in the grounds of detention. The procedural safeguards prescribed under the provisions of Public Safety Act and the rights guaranteed to the detainee under the Constitution have strictly been followed in the present case. He further argued that the pleas of the grounds of detention being vague, non-existent, non-relevant, not proximate or invalid, shall not invalidate the detention order as statutorily provided in Section 10-A of the J&K PSA, in terms whereof petitioner has been detained. He finally submits that the impugned detention order, having been passed perfectly in consonance with law, grounds of detention explained / communicated to the detainee, all safeguards complied with the subjective satisfaction of detaining authority, cannot be gone into, to substantiate its own opinion by the Court. It was prayed to uphold the impugned detention order.
7. Heard learned counsel for the parties, perused the material available on file and considered.
8. Grounds of detention reveal that the petitioner has an evil ideology for fomenting trouble which is likely threat to the security of the UT of J&K, besides creating fear among the general masses by way of anti national/unlawful activities. It is further reported that the detainee has been instigating the youth of the area to indulge in unlawful activities. With no specific allegations on these counts, his involvement has been shown in the commission of offences in cases registered vide FIR No. 116/2001 under Sections 7/25 Indian Arms Act, 467, 419 RPC and FIR 137/2022 under Sections 306, 452, 427, 506 IPC, with no details as to his trial or its outcome. This too is a

stale ground to base the detention in the month of September 2022, of an incident in the year 2001, after a period of more than twenty-one years. The afore-stated grounds of detention, as such, are general allegations against the detainee, with no specific instances/incidents. The detention order based on such vague and stale grounds is not sustainable, for the reason that the detaining authority before passing the order has not applied its mind to draw subjective satisfaction to order detention of the detainee by curtailing his liberty which is a valuable and cherishable right guaranteed under Article 21 of the Constitution of India.

9. In this regard reliance can be placed on the judgments of Supreme Court in the cases **(i) *Jahangirkhan Fazal Khan Pathan Vs. Police Commissioner Ahmadabad* (1989) 3 SCC 590 and, (ii) *Abdul Razak Nanekhan Pathan Vs. Police Commissioner Ahmadabad* AIR 1989 SC 2265.**
10. The petitioner-detainee, as discussed hereinabove, was ordered to be detained vide impugned detention order on vague and general grounds. The detainee in absence of specific grounds was not able to make an effective representation, either to the detaining authority or to the Government of J&K within statutory period. Therefore, the petitioner has been denied the legal, statutory and constitutional safeguards against his detention, rendering his detention unconstitutional.
11. On the touchstone of the law laid down above and the rival submissions, the order of detention, impugned in the instant petition, does not sustain on the aforesaid grounds. In the afore-stated backdrop, this petition is allowed. Impugned order of detention No.

DMS/PSA/116/2022 dated **12.09.2022** passed by District
Magistrate, Srinagar is, as such, hereby quashed.

12. Petition disposed of, as above.

(M. A. CHOWDHARY)
JUDGE

Srinagar
17.12.2025.
Muzammil. Q

Whether the order is reportable: Yes / No

