

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

...  
**HCP No. 149/2025**

Reserved on: 17.11.2025  
Pronounced on: 03.12.2025

**Manzoor Ahmad Bhat, Age 52 years, S/o Mohammad Sultan Bhat R/o Bhat Mohalla,  
Krumbhoora Tehsil, Zachaldars, District Kupwara through his wife (Mst. Saleema).**

..... Petitioner(s)

Through: Mr. I. Sofi, Advocate

**Versus**

- 1. Union Territory of J&K through Principal Secretary, Home  
Department, Civil Secretariat, Srinagar/ Jammu**
- 2. District Magistrate, Kupwara**

.....Respondent(s)

Through: Mr. Faheem Nisar Shah, GA.

**CORAM:**

**HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE**

**JUDGEMENT**

1. Impugned in this petition is Order no.10-DMK/PSA of 2025 dated 30.04.2025, passed by District Magistrate, Kupwara – respondent no. 2 (for short “*detaining authority*”) placing the detenu namely *Manzoor Ahmad Bhat, S/o Mohammad Sultan Bhat R/o Bhat Mohalla, Krumbhoora Tehsil, Zachaldars, District Kupwara* (for brevity “*detenu*”) under preventive detention and directing his lodgement in Central Jail, Kotbhalwal, Jammu on the grounds made mention of therein.

2. Respondents have filed Reply Affidavit in opposition to the petition.

3. I have heard learned counsel for parties. I have perused the detention record produced by learned counsel for respondents and considered the matter.

4. The case set up by petitioner is that detenu was way back in the year 2017 detained vide Order No.10/DMK/PSA of 2017 dated 18.09.2017 on the basis of his alleged involvement in FIR No. 50/2017 U/S 3/4 Exp. Sub Act registered in Police Station, Kralgund, which was challenged in a writ petition, being HCP No. 327/2017. The said detention order was quashed by virtue of a judgement dated 23.01.2017. It is stated that on 28th April, 2025, the detenu was again arrested by Police Station, Zachaldara, thereafter he was shifted to Police Station Handwara wherefrom he was shifted to Central Jail, Kotbhalwal, Jammu, to be detained under preventive detention in terms of impugned order of detention on similar set of allegations which contained in earlier detention order. It is stated that detenu is neither involved in any fresh FIR nor in any fresh prejudicial activity, as such, impugned detention order is in violation of Article 22(5) of Constitution of India and deserves to be quashed. Further, the detaining authority has passed the impugned detention order mechanically and without application of mind, inasmuch as the

Police while recommending the detention of the detenu has also made FIR No.50/2017 as basis for his detention. The police after investigation, filed challan in the Court of law which is sub-judice and till date police has not been able to prove said case against the detenu, therefore, mere registration of FIR and mere production of Challan in the said FIR does not establish that the detenu has committed the said offences as alleged in the ground of detention, inasmuch as the grounds of detention are vague, indefinite, non-existent on which no prudent man can make an effective representation against such allegations.

5. Learned counsel for petitioner has also made a submission that on the set of allegations and grounds those made use of by detaining authority in earlier detention order, have again been relied upon by detaining authority to issue impugned order of detention. It is also averred by him that grounds of detention are replica of dossier and unequivocally reflects and shows non-application of mind on the part of detaining authority and as a consequence of which impugned order of detention is liable to be quashed.

6. *Per contra*, learned counsel for respondents insists that detention order has been passed on subjective satisfaction by detaining authority and detention order is in accordance with law and there is no violation or infringement of rights guaranteed under the Constitution of India. Hence, he pleads that petition be dismissed.

7. Perusal of the file reveals that earlier, detenu was placed under preventive detention in terms of No.10/DMK/PSA of 2017 dated 18.09.2017, passed by respondent no.2, in which on its quashment, detenu was released. Further perusal of impugned detention order and earlier detention order would unambiguously show that detaining authority has copied earlier detention order *in verbatim*, which reflects total non-application of mind on the part of detaining authority. Such a practice in law is impermissible and, thus, vitiates impugned order of detention.

8. The law in this regard is well settled. If an order of detention comes to an end either by revocation or by expiry of the period of order of detention, there must be fresh facts to pass a subsequent detention order. When a detention order is quashed by the Court, issuing a high prerogative writ, like habeas corpus or certiorari, the grounds of said detention order should not be taken into consideration either as a whole or in part even along with fresh grounds of detention for drawing requisite subjective satisfaction to pass a fresh detention order because once the Court strikes down an earlier order by issuing a rule, it nullifies the entire order. It is, thus, clear that an order of detention cannot be made after considering previous grounds of detention when the same had been quashed by the Court, and if such previous grounds of detention are taken into consideration while forming subjective satisfaction by detaining authority in making a detention order, the order of detention will be vitiated. It is of no consequence if further

fresh facts, disclosed in the grounds of impugned detention order, have been considered. My view is fortified by the law laid down by the Supreme Court in *Chhagan Bagwan Kahar v. N.L. Kalna, and others*, AIR 1989 SC 1234; *Jahangir Khan Fazal Khan Pathan v. The Police Commissioner, Ahmedabad and another*, AIR 1989 SC 1812; and *Ramesh v. State of Gujarat*, AIR 1989 SC 1881. In such circumstances, impugned detention order is liable to be quashed as grounds of detention made use of by respondent no.2 while passing earlier detention order, subsequently quashed by this Court, have again been pressed into service while passing impugned detention order. The impugned order of detention is, therefore, unsustainable in law on this ground alone. Although other grounds have been raised by learned counsel for petitioner vis-à-vis impugned order of detention, yet those need not be elaborated in view of above discussion.

9. In view of above, the petition in hand is disposed of and detention Order no. 10-DMK/PSA of 2025 dated 30.04.2025, passed by District Magistrate, Kupwara against *Manzoor Ahmad Bhat, S/o Mohammad Sultan Bhat R/o Bhat Mohalla, Krumbhoora Tehsil, Zachaldars, District Kupwara* is quashed. Respondents are directed to release the detenu forthwith, provided he is not required in any other case. **Disposed of.**

10. Registry to return detention record to learned counsel for respondents.

(Vinod Chatterji Koul)  
Judge

Srinagar  
03.12.2025  
(Qazi Amjad, Jt.Reg./Secy)

Whether the order is reportable: Yes/No.