

Serial No. 33
Regular

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

HCP 291/2024

Date of pronouncement:- 16.10.2025

Uploaded on:- 27-10-2025

AQIB NABI MAGRAY

... Appellant/Petitioner(s)

Through: Mr. Wajid Mohammad Haseeb, Adv.

Vs.

**UNION TERRITORY OF J AND K AND
ORS. (HOME DEPARTMENT).**

...Respondent(s)

Through: Mr. Furqan Yaqub, GA vice
Mr. Bikramdeep Singh, Dy AG.

CORAM:

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

JUDGMENT(ORAL)

16.10.2025

1. The petitioner in the instant petition filed under Article 226 of the Constitution seeks quashing of order of detention bearing No. DMB/PSA/04 of 2024 dated 08-04-2024 passed by respondent 2/District Magistrate Budgam under in terms of the provisions of Jammu and Kashmir Public Safety Act 1978.
2. The impugned detention order has been challenged *inter alia* on the grounds that the allegations levelled in the grounds of detention have no nexus with the impugned order as the same related to the year 2020, where after no activity either to the pre-judicial security of state or public order have been attributed to the petitioner, and that the petitioner stands admitted to bail in the FIR referred and relied upon by the detaining authority while detaining the petitioner regarding which fact the detaining authority has shown non-awareness and that the petitioner was not furnished the relevant material like the copy of dossier and other

connected documents relied upon by the detaining authority while directing preventive detention of the petitioner in order to enable him to make an effective representation against his detention and that the petitioner even was not informed that he has a right of making a representation against his detention.

3. Reply affidavit to the petition has been filed by the respondents, wherein the petition is being opposed and its dismissal being sought on the premise that none of the rights of the petitioner are violated by the answering respondents and that the petitioner was detained after having been found involved in terrorist and secessionist activities also being in contact with various terrorists and working as OGW of the terrorist organization, aiding and supporting the terrorist and that the petitioner was also found involved in FIR No. 183/2020 registered with Police Station Chadoora and his activities upon being found pre-judicial to the security of the state, his detention became imperative as the normal law of the land was not found sufficient to deter him from the said pre-judicial activities. It is further stated that the detention order was executed against the petitioner on 09-04-2024 and he was also inform that he has a right to make a representation to the detaining authority as well as to the Government and that the advisory board examined the case of the petitioner and opined that there is sufficient material for continuing his detention, whereupon the detention of the petitioner came to be confirmed by the Government in terms of order dated 01-05-2024.

Heard counsel for the parties and perused the record.

4. It is significant to mention here that the instant petition was heard in part on the previous date of hearing being 09-10-2025 in presence of the assisting appearing counsel for the respondents however, today neither

the assisting counsel nor the arguing counsel for the respondents appeared.

5. The counsel for the petitioner while making his submissions, confined the challenge to the impugned order primarily on the ground that the detaining authority showed its complete non-awareness about the grant of bail dated 02-03-2024 to the petitioner in FIR 183/2020 registered with Police Station Chadoora, which the FIR have had been referred and relied upon by the detaining authority for the purposes of preventive detention of the petitioner.

It is also contended by the counsel for the petitioner that the detaining authority has detained the petitioner in terms of the impugned order solely on account of his alleged involvement in FIR No. 183/2020 supra while directing the preventive detention of the petitioner in terms of order dated 08-04-2024 without disclosing and indicating any activity post registration of the said FIR to be either pre-judicial to the maintenance of public order or security of state

6. Insofar, as the aforesaid first plea of the counsel for the petitioner is concerned, record bears testimony to the fact that the petitioner seemingly has been detained in terms of impugned order by the detaining authority on the basis of his involvement in FIR No. 183/2020 registered with police station Chadoora, in which FIR the petitioner stands bailed out by the court of Special Judge, NIA, Budgam in terms of order dated 02-03-2024 i.e. prior to the passing of the detention order. Record tends to show that neither the sponsoring agency nor the detaining authority has been alive to the grant of the said concession of bail to the petitioner and, as such, have remained oblivious to the said fact. The non-awareness of the respondents in general and the detaining authority in

particular about the grant of bail to the petitioner in the FIR supra in law would render the detention order legally unsustainable.

7. Insofar, as the aforesaid next plea of the counsel for the petitioner is concerned, a closer of examination of the detention record manifestly demonstrates that no activity either pre-judicial to the public order or security of state has been attributed to the petitioner post his involvement in the FIR supra or else after his release on bail therein the said FIR, yet the petitioner stands detained after a considerable period of more than 3 years under preventive detention by the detaining authority in terms of the impugned order manifestly signifying that the link between the involvement of the petitioner in the said FIR and detention order is missing as the petitioner admittedly have been detained by the detaining authority in the year 2024 on the basis of the FIR of the year 2020.
8. For what has been observed, considered and analyzed herein above, the instant petition succeeds, as a consequence whereof the impugned order bearing No. DMB/PSA/04 of 2024 dated 08-04-2024 is quashed with a direction to the respondents including concerned Jail Authority to release the petitioner from preventive detention unless is required in any other case.
9. The detention record produced by proxy counsel appearing for the arguing counsel for the respondents is returned back in the open Court.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR:
16.10.2025

Sarvar

*Whether the **Judgment** is speaking: Yes/No*
*Whether the **Judgment** is reportable: Yes/No*