

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

Pronounced on : 07.10.2026

**HCP No. 43/2026**

**Romelu Ram  
Through his son Jagjit Singh**

*.....Petitioner*

Through: Mr. P.C. Sharma, Advocate and  
Mr. Karan Sharma, Advocate

**Vs**

**UT of J&K & Ors.**

*.....Respondents*

Through: Mr. Suneel Malhotra, GA

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**

**JUDGMENT**

**01.** Heard learned counsel for the petitioner as well as for the respondents.

**02.** Perused the writ pleadings and the documents therewith. Also perused the detention record produced from the end of Mr. Suneel Malhotra, learned GA for the respondents.

**03.** The petitioner-Romelu Ram is suffering preventive detention custody lodged in District Jail, Jammu. The petitioner acting through his son has come forward with the present writ petition under article 226 of the Constitution of India for the

purpose of seeking quashment of his preventive detention custody inflicted by virtue of an order **No. PSA/178** dated **04.04.2026** passed by the respondent No. 2 – District Magistrate, Kathua under the J&K Public Safety Act, 1978.

**04.** A case for preventive detention of the petitioner was mooted and routed by the respondent No. 3 - Sr. Superintendent of Police (SSP), Kathua who, by virtue of a communication **No. Pros/26/13081-84/DPOK** dated **12.03.2026**, submitted a dossier to the respondent No. 2 – District Magistrate, Kathua thereby reporting the alleged state of activities of the petitioner which was reckoned to be prejudicial to the security of the State warranting detention of the petitioner under the J&K Public Safety Act, 1978.

**05.** In his dossier, the respondent No. 3– Sr. Superintendent of Police (SSP), Kathua came forward stating that the petitioner is a 66 years aged person having retired from the Medical Department and now pursuing his occupation as a farmer as native of village Machhedi, tehsil Lohai Malhar, district Kathua. The petitioner is further referred to be a history sheeter of Police Station Billawar and was reckoned to be involved in anti-social/ anti-national activities having links with anti-national activists and agencies by being a great sympathizer of banned terrorist organizations, providing all possible help like

transportation, internet, food and shelter to the terrorists of different banned outfits. The petitioner himself is referred to be involved in terrorist activities as well as responsible for law and order problems. The petitioner is further referred to be working as an OGW of a terrorist organization by being willingly inclined towards militancy and voluntarily providing logistic support to the militants, providing information about movement of security forces as a result whereof many cordon and search operations were frustrated.

**06.** By reference to his adverse antecedents/indulgences, the petitioner is referred to have been subjected to proceedings under Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 by reference to section 129 on two occasions i.e. **23.02.2026** & **05.03.2026** by the Police Station Billawar. In addition, adverse **DDR Nos. 19** dated **10.02.2026** & **20** dated **10.03.2026** from Police Station Billawar and of Police Station Malhar respectively came to be cited to portray the petitioner as a person involved in alleged activities prejudicial to the security of the State particularly in district Kathua.

**07.** By reference to the aforesaid adverse texted and toned dossier from the end of the respondent No. 3 – Sr. Superintendent of Police (SSP), Kathua, by a purported application of mind on his part, the respondent No. 2 – District Magistrate, Kathua came to

frame grounds of detention by literally borrowing word to word text of the dossier and then on that basis suffixing his purported appraisal holding that the alleged state of activities of the petitioner is highly objectionable and prejudicial to the security of the State.

**08.** In formulation of grounds of detention, the respondent No. 2 – District Magistrate, Kathua has come forward with a very express reference to and reproduction of section 8(3)(b) of the J&K Public Safety Act, 1978 as to what amounts to acting in any manner prejudicial to the security of the State.

**09.** On the basis of the purported grounds of detention, the respondent No. 2 – District Magistrate, Kathua came forward with issuance of detention order **No. PSA/178** dated **04.04.2026** thereby directing arrest and preventive detention of the petitioner and his confinement in District Jail Jammu.

**10.** The petitioner came to be taken into custody on **06.04.2026** when PSI Ganesh Dutt (EXJ-196739) from the Police Station Billawar is said to have been taken the petitioner into custody and carrying out the formality of handing over notice of the detention order, grounds of detention along with dossier besides reading over and explaining to the petitioner in Hindi/Dogri language and in acknowledgment getting his

signature on the receipt. The petitioner is simultaneously said to have been apprised of his right to make a representation to the Government as well as to the detention order making authority against his detention.

**11.** By virtue of Govt. Order **No. Home/PB-V/418 of 2026** dated **15.04.2026**, detention order came to be approved by the Government of UT of Jammu & Kashmir, acting through its Home Department in terms of the requirement of section 8(4) of the J&K Public Safety Act, 1978. The case of the petitioner was then referred to the Advisory Board for its opinion in terms of the mandate of section 15 of the J&K Public Safety Act, 1978.

**12.** The Advisory Board on its part, in exercise of jurisdiction under section 16, came forward with its Opinion Report dated **21.04.2026** on file **No. Home/PB-V/56/2026** thereby holding the petitioners detention to be resting on justifiable grounds. The fact of there being no representation from the end of the petitioner against his detention also came to be highlighted and, accordingly, the opinion report came to be submitted.

**13.** The Advisory Board's said Opinion Report, thus, resulted in confirmation of the petitioner's detention in terms of Govt. Order **No. Home/PB-V/490 of 2026** dated **30.04.2026** by

settling the first installment of detention period for a period of six months from **06.04.2026** to **05.10.2026** and place of detention to continue to be District Jail Jammu.

**14.** The petitioner came forward with the present writ petition filed on **22.05.2026**.

**15.** The petitioner in his petition has assailed his detention on the grounds as set out in para 12.

**16.** It is pleaded by the petitioner that the entire course of action related with his preventive detention custody is a colorable exercise of power and authority on the part of the respondents and sheer non-application of mind at each and every step of the exercise from the end of the authorities concerned including the Advisory Board.

**17.** It is pleaded that without any basis and material of any sense and substance but going purely on imagination and conjecturing, the respondent No. 3 – Sr. Superintendent of Police (SSP), Kathua as well as the respondent No. 2 – District Magistrate, Kathua carried out the detention order making exercise related to the petitioner so as to deprive him of his personal liberty which otherwise is a fundamental right of the petitioner. It is further pleaded that the grounds of detention are perverse.

**18.** The petitioner is referring to the fact that he came to exercise his constitutional right of submitting a representation against his preventive detention which has gone waste. The petitioner refers to the fact that he submitted his representation on **19.04.2026** through his son addressed to both the Principal Secretary to Government, Department of Home, Government of UT of Jammu & Kashmir and also to the respondent No. 2 – District Magistrate, Kathua sent through registered postal means on **21.04.2026**. The writ petition is accompanied with a copy of said representation along with the postal receipts to confirm the fact that the petitioner did submit his representation.

**19.** The counter affidavit to the writ petition came to be filed on **22.07.2026** from the end of the respondent No. 2 – District Magistrate, Kathua, coming forward to defend the exercise of power under the J&K Public Safety Act, 1978 in ordering the petitioner's preventive detention.

**20.** In his counter affidavit, the respondent No. 2 – District Magistrate, Kathua has referred to the judgments of the Hon'ble Supreme Court of India which are – State of T.N Vs Nabila, (2015) 12 SCC 127, Haradhan Saha Vs State of W. B., (1975) 3 SCC 198, State of Bombay Vs Atma Ram Shridhar Vaidya, AIR 1951 SC 157 & Sunil Fulchand Shah Vs Union of India, (2000)3 SCC 409.

**21.** When this Court examines the submissions of the learned counsel for the petitioner as well as of the respondents in the light of the writ pleadings, documents therewith and the detention record produced, this court gathers an instant conviction that the petitioner's preventive detention is a sheer abuse of process of law beginning right from the end of the respondent No. 3 – Sr. Superintendent of Police (SSP), Kathua to the end of the Government of UT of Jammu & Kashmir with intervening actor/s as well like the Advisory Board.

**22.** A bare perusal of the dossier would show that the petitioner has been branded as a terrorist without even a single case of ordinary criminal nature having been ever registered against him by any of the Police Stations in district Kathua or for that matter at any other place in the entire UT of Jammu & Kashmir. For the facility of reference, this Court reproduces the exact dossier text to highlight this fact which is as under:-

***“The subject is a history sheeter of P/S Billawar and it was gleaned through sensitive channels that, the subject is involved in Anti-Social/Anti National activities and has links with the Anti National activists/agencies a great sympathizer of banned terrorist organizations and has been alleged to provide all possible help like transportation, internet, food and shelter to the terrorists of different banned outfits. He was involved in Anti-National /Anti-Social activities but always escapes from the clutches of law. According to credible sources on ground,***

***the subject has started to work as OGW of terrorist organization.”***

**23.** Thus, without there being any reported act of alleged involvement in terrorist activities, the petitioner has come to be branded as an OGW of terrorist organization without any remote reference as to which terrorist organization/banned outfit the petitioner was found to be linked with. The dossier does not refer as to vide which order number, the petitioner has shown to be a history sheet of Police Station Billawar when there is not even a single criminal case cited in the entire dossier from the end of the respondent No. 3 – Sr. Superintendent of Police (SSP), Kathua. It appears that the respondent No. 3 – Sr. Superintendent of Police (SSP), Kathua has cut paste the contents of the dossier relatable to some other person actually having the linkage with the terrorist organizations/banned outfits and also a history sheet of the Police Station Billawar and then ascribed it to the petitioner.

**24.** The only proceedings under the criminal procedure against the petitioner cited in the entire dossier are that of section 129 vide **Istghasa No. 30/6-10** dated **23.02.2026** & **Istghasa No. 32/6-10** dated **05.03.2026**.

**25.** By reference to the proceedings under section 129 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, the

respondent No. 3 – Sr. Superintendent of Police (SSP), Kathua in his dossier has not bothered himself to know, and then to make it known to the respondent No. 2 – District Magistrate, Kathua, as to whether the same have been taken to logical conclusion by a final order under section 136 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 from the end of the Executive Magistrate Ist Class, Billawar so as to bind the petitioner on bond maintain good behavior.

**26.** The other adverse material relatable with the petitioner is two purported entries as **DDR No. 19** dated **10.02.2026** of the Police Station Billawar and **DDR No. 20** dated **10.03.2026** of the Police Station Malhar which are literally hearsay inputs.

**27.** Thus, the dossier is making a very fairy story like representation of and against the petitioner without any factual content whatsoever except that reference to proceedings relatable to section 129 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and DDR Nos. 19 & 20 of the Police Station Billawar and the Police Station Malhar.

**28.** The dossier so submitted by the respondent No. 3- Sr. Superintendent of Police (SSP), Kathua ought to have suffered an outright rejection by and from the end of the respondent No. 2 – District Magistrate, Kathua but instead, the respondent No. 2 –

District Magistrate, Kathua took time at his leisure to come forward with his purported application of mind, after more than 22 days, to formulate the grounds of detention and pass detention order **No. PSA/178** dated **04.04.2026**.

**29.** The non-application of mind on the part of the respondent No. 2 – District Magistrate, Kathua is ex-facie exhibited from the very fact that while the respondent No. 2 – District Magistrate, Kathua is applying section 8(3)(b) of the J&K Public Safety Act, 1978 as to the act/s which amounts to acting in any manner prejudicial to the security of the State but the same are actually relatable to “Maintenance of Public Order”.

**30.** This Court reproduces the exact text of the grounds of detention formulated on the part of the respondent No. 2 – District Magistrate, Kathua which is:-

“Before proceeding further, it would be appropriate to outline the provisions of Section 8(3)(b) of J&K Public Safety Act, 1978 that spells out the meaning of acting in any manner prejudicial to the security of the state, which is reproduced as under:-

1. Promoting, propagating, or attempting to create, feelings of enmity or hatred or disharmony on ground of religion, race, caste, community, or region;
2. Making preparations for using, or attempting to use, or using, or instigating, inciting, provoking or otherwise, abetting the use of force where such preparation, using, attempting, instigating, inciting, provoking or abetting, disturbs or is likely to disturb public order;

3. Attempting to commit, or committing, or instigating, provoking or otherwise abetting the commission of, mischief within the meaning of section 425 of the Ranbir Penal Code where the commission of such mischief disturbs, or is likely to disturb public order;
4. Attempting to commit, or committing or instigating, inciting, provoking or otherwise abetting the commission of an offence punishable with death or imprisonment for life or imprisonment of a term extending to seven years or more, where the commission of such offence disturbs, or is likely to disturb public order;”

**31.** Section 8 sub-section (3)(b) of the J&K Public Safety Act, 1978 is reproduced herein next:-

- “(3) For the purposes of sub-section (1),
- (a) [Omitted.] [*Omitted by Act XII of 1988, section 2.*]
  - (b) "acting in any manner prejudicial to the maintenance of public order" means-
    - (i) promoting, propagating, or attempting to create, feelings of enmity or hatred or disharmony on ground of religion, race, caste, community, or region;
    - (ii) making preparations for using, or attempting to use, or using, or instigating, inciting, provoking or otherwise, abetting the use of force where such preparation, using, attempting, instigating, inciting, provoking or abetting, disturbs or is likely to disturb public order;
    - (iii) attempting to commit, or committing, or instigating, provoking or otherwise abetting the commission of, mischief within the meaning of section 425 of the Ranbir Penal Code where the commission of such mischief disturbs, or is likely to disturb public order;
    - (iv) attempting to commit, or committing or instigating, inciting, provoking or otherwise

abetting the commission of an offence punishable with death or imprisonment for life or imprisonment of a term extending to seven years or more, where the commission of such offence disturbs, or is likely to disturb public order;”

**32.** Thus, the respondent No. 2 – District Magistrate, Kathua is caught on wrong foot in terms of his very elementary understanding of the J&K Public Safety Act, 1978 by co-relating something which is dealing with the activities prejudicial to the maintenance of public order and referring it to as the activities prejudicial to the security of the State and acting on the sheer misunderstanding and misconception of law, the respondent No. 2 – District Magistrate, Kathua has examined the fate of the petitioner’s personal liberty.

**33.** On this technical aspect itself, the preventive detention of the petitioner ought not to have been held justified by the Advisory Board in terms of its Opinion Report but, nevertheless, even the Advisory Board seems to have given a skip to such patent anomaly and has taken mechanical exercise at its end to dish out a favourable opinion report to the Government to justify the confirmation of the petitioner’s preventive detention.

**34.** This Court has no iota of doubt that there seems to be a *malafide* at work from the end of the District Police against the

petitioner so as to book him under the J&K Public Safety Act, 1978 without any occasion and basis for acting and doing so.

**35.** In the light of the aforesaid, this Court holds the very preventive detention of the petitioner as illegal and the entire exercise relatable therewith also illegal vitiated with malice in law.

**36.** Detention order **No. PSA/178** dated **04.04.2026** read with approval/conformation/extension order/s whatsoever passed by the Government of UT of Jammu & Kashmir are held to be illegal and are hereby quashed.

**37.** The petitioner is directed to be released to his personal liberty forthwith by his release from the District Jail, Jammu.

**38.** The Superintendent, District Jail, Jammu to act in abidance of the directions of this Court by releasing the petitioner from his Jail.

**39. *Disposed of.***

**40.** Detention record to be returned back to the learned counsel for the respondents.

**(RAHUL BHARTI)  
JUDGE**

**JAMMU  
07.10.2026  
Muneesh**

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| Whether the judgment is speaking :   | Yes |
| Whether the judgment is reportable : | No  |