

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

**HCP No.82/2025  
CM No.7046/2025**

*Date of pronouncement: 05.02.2026  
Date of uploading: 05.02.2026*

**Bilal Ahmed, Age 40 years  
S/o Bashir Ahmed Wani  
At Present Central Jail KotBhalwal,  
Jammu, J&K  
Through Brother  
Shameem Ahmed, Age 20 years  
S/O Abdul Rashid  
R/o Tanta, Doda, District Doda,  
J&K**

.....Petitioner/Appellant(s)

Through: Mr. Sanchit Verma, Advocate.

**Vs**

- 01. UT of J&K through Commissioner/Secretary, Home, Civil  
Secretariat, Jammu/Srinagar.  
02. District Magistrate, Doda.  
03. Divisional Forest Officer (DFO), Bhaderwah.  
04. Superintendent, District Jail, Udampur, J&K**

...Respondent(s)

Through: Mr. Bhanu Jasrotia, GA.

**CORAM: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

**JUDGMENT  
05.02.2026 (ORAL)**

- 01.** Petitioner has invoked writ jurisdiction of this Court for quashment of Detention Order No.PSA/02 of 2025 dated 12.03.2025, passed by respondent No.2-District Magistrate, Doda under Section 8(1)(a-1) of J&K Public Safety Act, 1978 (hereinafter referred as "PSA") and consequent release from detention.
- 02.** Background facts of the case are that a dossier dated 06.03.2025 came to be submitted by Divisional Forest Officer, Bhaderwah to respondent No.2-District Magistrate, Doda alleging *inter alia* that petitioner is a notorious timber smuggler, causing damage to the forests of the District, especially in

compartment 05/Jai Chiralla Range of Bhaderwah Forest Division. It was alleged that there were two FIRs already registered against him at Police Station, Gandoh and another FIR lodged by Block Officer Jai-1<sup>st</sup> regarding manhandling/death threatening to a Govt. official and that his activities were causing damage not only to the green wealth of the district and local biodiversity of the area, but also impacting the lives of the people. He had not renounced his illegal practices even after issuance of warnings and registration of damage cases against him. It was evident from the registration of two FIRs/ damage cases/reports against him that he had least respect for the Law of Land. He had got huge motivation and great propensity to indulge in activities which can damage the forests and environment and would be detrimental to the local ecosystem and peaceful existence of the society. It was also alleged that activities of the petitioner in illegal trade and smuggling of timber for personal gains not only endangers the local environment, but also poses serious threats to the lives of health of the people. On the receipt of this dossier, impugned detention order came to be passed, in execution whereof, petitioner came to be detained in Central Jail Kot Bhalwal, Jammu.

- 03.** Petitioner is aggrieved of the impugned order, primarily on the ground that he has been framed by the respondents in a false and frivolous case because he gave interview on the Social Media, whereby he had alleged rampant deforestation in the forest area of Bhaderwah Division at the behest of the forest officials under the command of respondent No.3. It is contended that there is no exemplary or cogent material and details available on the basis of which, impugned order came to be passed by respondent No.2. He has been detained on the basis of concocted story with no material on record regarding his involvement in damaging the forests or timber smuggling.

Since he was not provided the relevant material/documents to enable him to make an effective representation against his detention, impugned detention order is violative of Article 22(5) of the Constitution of India. He was neither informed about his right to make representation nor provided liberty of being heard, which constituted infraction of his constitutional right. The detention order was not communicated to him in the language he understands. Grounds of detention are replica of the dossier with interplay of some words here and there which exhibits total non-application of mind on the part of the detaining authority and that detention order has been passed in sheer disregard to the provisions of PSA.

- 04.** The petition has been resisted on the other side by the respondent-UT, primarily on the ground that detention of a detenue is not punitive but preventive in nature on the basis of dossier provided by the concerned authorities. It is contention of the respondents that conduct of the petitioner in inflicting damage to the forests and smuggling timber, constrained the authorities to detain him.
- 05.** It is further contended that petitioner was handed over the detention order (01 leaf), notice of detention (01 leaf), copy of dossier (05 leaves) along with all relevant documents (05 leaves), i.e. total 12 leaves through the Execution Officer of Police Station Gandoh on 15.03.2025, i.e. on the date of execution of the detention order, in lieu of which signatures of petitioner were obtained against proper receipt.
- 06.** It is contention of the respondents that with a view to prevent the detenue from indulging in similar activities, he was ordered to be detained in accordance with the Provisions of the Act vide impugned Order dated 12.03.2025. He was duly informed of his detention on the grounds specified and that he has a right to make a representation to the

Government, if he so desires. The detention order was executed by the concerned police and the grounds of detention was read over and explained to him in the language which he understands. It is also contention of the respondents that only after the Advisory Board was satisfied that there was sufficient ground for his detention, the Government confirmed the impugned detention order, he came to be detained for a period of one year in Central Jail Kot Bhalwal, Jammu. According, to the respondents, the detention of the detenue, in the present case is precise and proximate and since all statutory constitutional Provisions and legal formalities of PSA have been duly followed, there is no vagueness in the grounds of detention. It is denied by respondents that the impugned order has been passed without application of mind. According to the respondents, impugned order has been passed as a preventive measure keeping in view the activities of the petitioner which are detrimental to the forests and environmental health.

07. It is also contention of the respondents that representation of the petitioner dated 29.05.2025 was addressed to the Home Department through District Magistrate Doda. Respondents have prayed for dismissal of the writ petition.
08. Heard argument and perused the file.
09. Learned counsel for the petitioner has relied upon **“Vijay Kumar V. State of J&K & Ors.”; AIR 1982 SC 1023, “Dr. Rahamatullah V. State of Bihar & Anr.”; AIR 1981 SC 2069, “K.M. Abdulla Kunhi and Anr. V. Union of India & Ors.”; AIR 1991 SC 574** and a judgment rendered by this Court in **“Hasham Din V. UT of J&K & Ors.”, [HCP No.81/2025 dated 06.11.2025]**, besides relying upon the ground urged in the memo of petition.

10. Per contra, Mr. Bhanu Jasrotia, learned GA has maintained the stand of the respondents in arguments.
11. At the foremost, it is allegation of the petitioner that he gave interview on Social Media news KK Portal page handle regarding rampant deforestation in the forest area of Bhaderwah Division on the behest of forest officials, widespread cutting of trees and illegal felling of trees by forest officials under the command of respondent No.3, whereby he made remarks on forests officials under whose aegis rampant cutting of trees were going on. According to the petitioner, it was due to this interview and tussle with forests officials that he came to be framed in two false and frivolous damage cases by the respondents. According to the petitioner, Damage Case No.42/2024-25, was never conveyed to him and he came to know about it for the first time when impugned detention order came to be issued.
12. Interestingly, respondents in counter affidavit have not denied allegations of the petitioner, contained in para 7 of the petition, regarding interview given by him on Social Media alleging widespread and rampant deforestation in the forest area of Bhaderwah division at the behest of forest officials under the command of respondent No.3. In reply to this para, respondents have simply stated that petitioner has been detained due to the nature of his illegal activities those were enumerated in the dossier. There is nothing in the counter affidavit that whether they were aware about any such interview or that allegations levelled by the petitioner in Social Media were false. It is settled law that no reply or evasive reply to allegations amounts to admission on the part of the person against whom allegation is made.

13. It is evident from the dossier and the grounds of detention that impugned order has been passed against the petitioner on the basis of two damage cases regarding felling of trees by him. A question to be discoursed in such circumstances, is whether such allegations would constitute an act amounting to disturbance of public order.
14. It is trite position of law that if ordinary law of land is competent to deal with criminal activities of an offender, resort to the provisions of preventive detention laws are illegal, because the expressions “Public Order” and “Law and Order”, operate in different fields and have different connotations. If an act has the potentiality to disturb public order, public at large is affected by said criminal activity, whereas, a particular criminal activity of a person shall be prejudicial to a particular individual or a member or members of society. In other words, breach of law by an individual by indulging in a criminal activity or in contravention of the provisions of a particular statute, may tantamount to a law and order problem, but it cannot be termed as disturbance of public order.
15. The detenue in the present case is alleged to be involved in two criminal cases regarding felling of trees and smuggling of timber. In both the cases, final reports stand submitted in the competent Courts. There is nothing in the record to suggest that whether petitioner at any point of time was arrested or not. There is nothing in the record either to suggest that ordinary law of land is not competent to deal with the law and order problem alleged to have been created by the petitioner.
16. Be that as it may, allegations contained in the grounds of detention, certainly do not fall within the category of ‘public order’. The allegations/contentions of the respondents that detenue is a chronic and habitual forest offender and indulges in timber smuggling are too vague in

nature and do not satisfy the requirements envisaged under Section 8 of PSA.

17. Mr. Sanchit Verma, learned counsel for the petitioner has vehemently argued that delay in disposal of the representation submitted by the petitioner is violative of Article 22(5) of the Constitution of India.
18. It is settled proposition of law that in cases of preventive detention, appropriate Government is obliged not only to afford the detainee an opportunity to make effective representation, but also consider the same without unreasonable delay because it involves the liberty of a citizen guaranteed by Article 19 of the Constitution of India. It has been so held in a long line of decisions rendered by Hon'ble Supreme Court from time to time that unreasonable delay in consideration of representation submitted by a detainee amounts to infringement of Article 22(5) of the Constitution of India.
19. Hon'ble Supreme Court in **K.M. Abdulla Kunhi** (Supra) held that though there can be no hard and fast rule regarding the timeline within which a representation is required to be considered by the Government and there is no limitation provided under the Constitution or under PSA within which a representation is required to be considered and decided by the Government, however, it is manifest from the words "**as soon as may be**", occurring in Clause (5) of Article 22 of the Constitution that unexplained delay in disposal of representation would amount to infringement of Article 22(5) of the Constitution of India. Relevant excerpt of the judgment for the ease of reference is extracted below:

**".....5(a) The representation relates to the liberty of the individual, the highly cherished right enshrined in Article 21 of our Constitution. Clause (5) of Article 22 therefore, casts a legal obligation on the Government to**

consider the representation as early as possible. It is a constitutional mandate commanding the concerned authority to whom the detenue submits his presentation to consider the representation and dispose of the same as expeditiously as possible.

5(b) The words “as soon as may be” occurring in clause (5) of Article 22 reflect the concern of the Framers that the presentation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay. However, there can be no hard and fast rule in this regard. It depends upon the fact and circumstances of each case. There is no period prescribed either under the Constitution or under the concerned detention law, within which the representation should be dealt with the requirement however, is that there should not be supine indifference slackness or callous attitude in considering the representation. Any unexplained delay in the disposal of the representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal....”

20. A similar observation has been made by Hon’ble Supreme Court in **Dr. Rahamatullah** (Supra) and **Vijay Kumar**(Supra), which came to be followed by this Court in **Hasham Din**.
21. In the present case, representation dated 22.05.2025, preferred by the petitioner came to be received by the detaining authority-respondent No.2 on 29.05.2025 and as per the record, said representation came to be decided on 16.07.2025 by the Department of Home, i.e. after 45 days. Respondents have not offered any explanation for such inordinate delay on their part to consider representation of the petitioner, which is violative of fundamental right of the detenue/petitioner within the meaning of Article 22(5) of Constitution of India.

22. Viewed from any angle, impugned detention order does not sustain in the eyes of law. Hence, present petition is allowed and impugned order is quashed. The petitioner/detenu is directed to be released forthwith from detention, provided he is not involved in any other case or offence. Record is returned to learned Govt. counsel in the open Court.

23. *Disposed of.*

(Rajesh Sekhri)  
Judge

Jammu  
05.02.2026  
*Eva*

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| Whether the judgment is speaking or not?   | Yes |
| Whether the judgment is reportable or not? | Yes |