

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

HCP No. 94/2025

Reserved on: 19.02.2026
Pronounced on: 26.02.2026
Uploaded on: 26.02.2026.

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

**Manzoor Ahmed @ Furqan, Aged-35 Yrs.
S/O Ghulam Mohd. Naik
R/O Dalwah, Tehsil Gool, District Ramban**

.....Appellant/petitioner(s)

Through :- Mr. T.R. Wani, Advocate.
v/s

1. **UT of J&K through
Comm./Secretary to the Govt. Home
Department, Civil Secretariat, Jammu.**
2. **District Magistrate, Ramban**
3. **Senior Superintendent of Police,
Ramban**
4. **Superintendent, District Jail, Amphalla,
Jammu.**

.....Respondent(s)

Through :- Mr. Bhanu Jasrotia, GA.

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

JUDGMENT

01. Impugned in this petition is an Order of Detention No. 04/PSA/2024 dated 04.08.2024, issued by respondent No. 2-District Magistrate, Ramban under Jammu and Kashmir Public Safety Act, 1978 (for short “ the PSA”), vide which petitioner has been detained and lodged in District Jail, Amphalla, Jammu.

02. Background facts of the case are that Senior Superintendent of Police, Ramban vide communication No. CB/DOSSIER/2024/11172, dated 20.07.2024, submitted a dossier regarding alleged illegal activities of the petitioner and recommended his detention under PSA.

03. It was alleged that petitioner was a surrendered/released militant on the rolls of Police Station Gool, who was involved in 12 FIRs viz., FIR No. 54/2002 U/S 307/121A/IPC, 3 PSSA of P/S Gool, FIR No.100/2002 U/S 364/343/341/12A/IPC, 7/27/Arms Act of P/S Gool, FIR No. 110/2002 U/S 435/436/121A/IPC of P/S Gool, FIR No. 52/2006 U/S 364/302/121A/IPC,4/25/Arms Act of P/S Gool, FIR No. 64/2006 U/S 302/121A/IPC 7/27/Arms Act of P/S Gool, FIR No. 41/2007 U/S 302/121A/450/IPC, 7/27/Arms Act of P/S Gool,, FIR No. 42/2007 U/S 302/307/450/121A/IPC, 7/27/Arms Act of P/S Gool, FIR No. 49/2007 U/S 364/302/342/323/34/IPC, 7/27/Arms Act of P/S Gool,, FIR No. 52/2007 U/S 4/5/Explosive Act of P/S Gool, FIR No. 66/2007 U/S 307/121A/IPC 4/5 Explosive Act of P/S Gool, FIR No.72/2007 U/S 302/121A/307/IPC,7/27/ A Act of P/S Gool and FIR No. 17/2008 U/S 364/302/121A/ IPC 7/27/ Arms Act of P/S Gool.

04. It was alleged that as per the record of Police Station Gool and information provided by sister agencies, petitioner had been absconding since 2023 till date. Non-bailable warrants had been issued against him by the High Court. His search was conducted through officers/officials of Police Station Gool in the AOR of the Police Station and various sister agencies were also looking for him. Possible efforts were made to search him but his whereabouts could not be ascertained. The activities and sudden absconding of the petitioner were suspicious in sensitive matters. There was a large possibility that

petitioner, who was wearing the ranks of HM outfit, being a local well-versed with the terrain and information regarding militancy history, hideouts etc., might provide sensitive information to ANEs, harbour them and motivate youth of the area to join *Jihad* to create communal tension. His activities remained harmful in the past and in the current scenario, he could be highly prejudicial for peace, prosperity, tranquility, integrity and security of the UT of Jammu and Kashmir, particularly of Gool area, especially when he was absconding to evade his arrest.

05. The dossier further alleged that it had been learnt through reliable sources that petitioner was instigating and provoking general masses of youth of Gool and its adjoining areas against the Government to disrupt peace and law and order and he may create communal tension. In this respect, 12 reports came to be entered in the Daily Dairy Register by SHO, Police Station Gool, the details whereof are :-

1. DDR No. 20 dated 23-06-2024,
2. DDR No. 12 dated 27-06-2024,
3. DDR No. 20 dated 27-06-2024,
4. DDR No. 16 dated 12-07-2024,
5. DDR No. 18 dated 12-07-2024,
6. DDR No. 05 dated 13-07-2024,
7. DDR No. 10 dated 13-07-2024,
8. DDR No. 06 dated 14-07-2024,
9. DDR No. 08 dated 14-07-2024,
10. DDR No. 05 dated 19-07-2024,
11. DDR No. 06 dated 20-07-2024
12. DDR No. 09 dated 20-07-2024,

06. In the light of aforesaid activities, alleged against the petitioner, SSP Ramban made a recommendation to the District Administration for his preventive detention under PSA. It was alleged that, in view of reports of the DD extracts and his involvement in 12 FIRS, his freedom was harmful for security, i.e., a threat to the sovereignty and integrity of the UT of J&K and country.

07. On perusal of the aforesaid dossier submitted by SSP Ramban and having regard to the provisions of PSA, respondent no. 2-District Magistrate Ramban passed the impugned order.

08. Petitioner is aggrieved of the impugned order of detention, *inter alia*, on the following grounds:-

a. Because the bare perusal of the order impugned makes it amply clear that the same has been issued by the respondent no.2 in an unreasonable, arbitrary and malafide manner. On this ground alone the order impugned requires to be quashed by this Hon'ble Court.

b. Because the bare perusal of the order impugned makes it amply clear that the same has been issued by the respondent no.2 casually and mechanically and without proper application of mind to the peculiar facts and circumstances of the present case. On this ground also the order impugned requires to be quashed by this Hon'ble Court.

c. Because the grounds of detention are a verbatim copy of the dossier prepared by the respondent no. 3. The respondent no. 2 has miserably failed to record its subjective satisfaction before passing the order impugned. The bare perusal of the grounds of detention and order impugned makes it amply clear that respondent no.2 has miserably failed to record subjective satisfaction that activities of the petitioner are harmful against the security and maintenance of public order in the Gool area. It is trite law that a detaining authority before passing an order of detention under the J&K Public Safety Act, 1978 is bound to record its independent subjective satisfaction to the extent that the activities of the petitioner are prejudicial to the maintenance of the public order. On this ground also the order impugned requires to be quashed by this Hon'ble Court and petitioner be set at liberty.

d. Because the grounds of detention, the order of detention and dossier were not provided to the petitioner within the stipulated period as prescribed under Section 13 of J & K Public Safety Act, 1978 and moreover the same was neither read over nor explained to the petitioner in the language which the petitioner understands. It needs to mention that petitioner is not in a position to read or understand English Language and the grounds of detention were neither explained to him nor made him understand. The respondents did not supply all the relevant documents/material on which the respondents had relied their detention while passing the impugned detention order within the stipulated period enabling the petitioner to file an effective representation against his detention under the J&K Public Safety Act, 1978 before the concerned authorities. It is worthwhile to mention here that in the grounds of detention, it is alleged that the petitioner is surrendered/released militant son the roll of P/S Gool and the activities of the petitioner are harmful against the security and maintenance if public order in the Gool area. It is also alleged that the petitioner is also involved in 12 FLRs the detail of which is mentioned in the dossier as well as in the grounds of detention but the record of which has not been provided to the petitioner. It is relevant to mention here that out of the 12 FLRs

mentioned in the dossier, the petitioner has been acquitted in 4 FLRs bearing FIR No. 5212006,4212007,4912007 and FIR No. 66/2007.

e. Because the respondent no. 2 & 3 has not provided the detail of the two FLRs bearing No.72/20027 and FIR No. 17/2008 due to which the petitioner is not in a position to make an effective representation against his detention. On this ground also the order impugned requires to be quashed by this Hon'ble Court and petitioner requires to be released by this Hon'ble Court.

f. Because from perusal of the detention order and grounds of detention, it has been mentioned by the detaining authority that the petitioner is evading the arrest since 2023 to till date and non-bailable warrants has been issued by the Hon'ble High Court against the petitioner. It is also alleged by the respondent no. 2 & 3 that the activities and sudden absconding of the petitioner is suspicious into the sensitive matters and may provide sensitive information to ANEs or even harbour them. It clearly demonstrates that the detention order no. 04/PS A of 2024 dated 04-08-2024 has been passed by detaining authority on assumptions and presumptions without proper application of mind, without having any substance, thus requires to be set aside and petitioner be set at liberty.

g. Because the detaining authority before passing an order of detention under Public Safety Act, 1978 has to record its subjective satisfaction based on the material placed before it. The detaining authority has failed to provide the detail and data to the petitioner, allegations of which has been made in the grounds of detention and dossier with regard to the petitioner that petitioner who himself wearing the ranks of HM outfit, and being local is well versed with the terrain and other information regarding militants history, hideouts etc and may provide such sensitive information to ANEs or even harbour them. It is relevant to mention all these allegations are mere suspicious and no document proof of his being wearing a rank of HM outfit has been provided to the petitioner, hence on this ground also the petitioner requires to be set aside and petitioner be set at liberty.

h. That is also mentioned in the grounds of detention as well as in the dossier that due to the harmful activities of the petitioner which are highly prejudicial for the peace, prosperity, tranquility, integrity and security of the UT of J&K particularly Gool area, in this regard relevant reports (DDR) have been entered in the Daily Dairy Register by SHO P/S Gool and a total of 12 Daily Diary reports have been entered from 23-06-2024 to 20-07-2024, makes it crystal clear that the police reports relied by the detaining authority speaks volume of malice and has been prepared by the concerned authority in a routine/casual/mechanical manner and the matter of fact is that the petitioner was not provided with these reports due to which the petitioner is not able to file an effective representation against his detention under the J&K Public Safety Act, 1978. That the activity of the petitioner is prejudicial to public order or in other words disturbs the public order, there is nothing on record to show that activities of the detenu are prejudicial to the maintenance of public order. On this ground also the order impugned requires to be quashed by this Hon'ble Court and petitioner requires to be released by this Hon'ble Court.

i. Because the grounds of detention and also in the detention order, it is alleged that the activities of the petitioner are very harmful against

the security and maintenance of public order in the Gool area. That the bare perusal of the communication dated 20-07-2024 transpires that respondent no.3 is seeking the issuance of detention warrant against the petitioner on the ground that the activities of the petitioner are very harmful against the security and maintenance of public order in the Gool area. It needs to mention that expression "The Security of the UT", "Law and Order" and "Public Order" makes a lot of difference and cannot be used interchangeably. The detaining authority itself is not clear as to whether the activities of the petitioner are prejudicial and detrimental to law and order or security of the state or security of the district or public order. The bare perusal of the J&K Public Safety Act, 1978 makes it amply clear that a person can be detained under the J&K Public Safety Act, 1978 either on the ground that the activities of the detenu are prejudicial to the maintenance of public order or security of the state but not on both the grounds simultaneously. Both grounds cannot be clubbed together. The expression "Public Order" and "security of State" are two separate and distinct concepts and have been clearly defined under Section B of J&K Public Safety Act, 1978. Moreover, the grounds of detention are vague and ambiguous and bound to keep the petitioner unclear about what really was intended to be conveyed by the detaining authority. On this ground also the order impugned requires to be quashed by this Hon'ble court and respondents be directed to set the petitioner at liberty.

j. That it has been presumed by the detaining authority in ground no. 6 that the petitioner "may" provoke the youth of the area for anti-national and criminal activities in future cannot be a ground for detaining a detenu under the Public safety Act, 1978, as law is well settled that the detaining authority cannot curtail the liberty of a person mere assumptions and presumptions by making prediction, hence the detention order requires be quashed by this Hon'ble Court

k. That no doubt vast powers are conferred upon the respondents to curtail the personal liberty of the person by exercising the powers conferred under Jammu and Kashmir Public Safety Act, 1978 but the said powers are to be exercised by the respondents in a just, fair and reasonable manner keeping in view the scope and object of the Jammu and Kashmir Public Safety Act, 1978. The respondents instead of exercising the vast powers conferred upon them under J&K Public Safety Act, 1978 in a just, fair and reasonable manner have exercised the same in an arbitrary and mala fide manner and the same has resulted in the infringement of personal liberty of the petitioner. It is a fit case for the exercise of extraordinary writ jurisdiction by this Hon'ble Court as the detention of the petitioner under J&K Public Safety Act, 1978 has resulted in the infringement of personal liberty of the petitioner and therefore the order impugned requires to be quashed by this Hon'ble court and further directions are required to be issued to the respondents to release the petitioner at the earliest.

l. That in the interest of justice and to meet the ends of justice the order impugned requires to be quashed by this Hon'ble Court and petitioner be set at liberty at the earliest. It needs to mention that since the petitioner is in the illegal captivity of the respondents and the same has resulted in the infringement of the right to personal liberty of the petitioner, therefore while quashing the order impugned, this Hon'ble Court requires to direct the respondents to compensate the petitioner for the

infringement of his fundamental right of personal liberty by paying him compensation to the tune of Rs. 50, 00000/- (Rupees Fifty Lakhs Only).

09. It is contention of the petitioner that on 05.08.2024 he was called by respondent no. 3-SSP Ramban to Police Station Gool, where he was taken into custody and thereafter directly taken to District Jail, Amphalla and lodged there. His wife came to know about his detention under PSA only on 19.03.2025 and, until then, neither he nor his wife nor any member of his family was aware of his detention under PSA. It is alleged by the petitioner that he was not allowed to inform members of his family about his detention by respondent No. 4-Superintendent, District Jail, Amphalla, Jammu. According to the petitioner, on 19.03.2025, when his counsel appeared in CRAA No. 151/2014 listed in the High Court, the counsel appearing for the UT of J&K apprised the Court about his detention under PSA and that he was lodged in District Jail, Amphalla. His wife, on coming to know about his detention under PSA, approached respondent no. 4 and obtained the order of detention, grounds of detention and dossier from the concerned authorities, but no other document mentioned in the grounds of detention was provided.

10. Petitioner has invoked writ jurisdiction of this Court for the quashment of the impugned detention order and for issuance of a mandamus directing the respondents to pay compensation of Rs. 50.00 lacs.

11. Countervailing the stand of the petitioner, *per contra*, respondents are affront with the contention that none of the legal, constitutional, statutory or fundamental rights of the petitioner has been violated and disputed questions of fact raised by him cannot be adjudicated by this Court in exercise of writ jurisdiction.

12. It is contention of the respondents that by virtue of impugned order, petitioner came to be detained under PSA after due compliance of the statutory requirements and constitutional guarantees, keeping in mind the object of lawful preventive detention, which is not punitive but preventive in nature.

13. The impugned order was submitted to the Principle Secretary to Government, Home Department, J&K for approval. The Home Department, vide Government Order No. Home/PB-V/1669 of 2024 dated 13.08.2024, accorded approval to the impugned order and vide letter No. Home-DTT/500/2023-7176114 dated 20.11.2024, requested District Magistrate, Ramban for a report regarding non-execution of the detention warrant against the petitioner. The office of the District Magistrate, vide letter No. ADMR/279 dated 21.11.2024, requested SSP for status of execution of the detention warrant, and SSP, vide letter No. CB/Misc/25/2052/54 dated 05.03.2025, reported that petitioner, after strenuous efforts, had been arrested on 04.03.2025 from Dharam area of Gool and lodged at District Jail, Amphalla, Jammu. The Home Department, vide Government Order No. Home/PB-V 519 of 2025 dated 24.03.2025, directed detention of the petitioner for a period of three months in the first instance from the date of his detention, which came to be extended from time to time.

14. It is contended that impugned detention order dated 04.08.2024 was sent to the petitioner through SSP Ramban with an intimation that he may file a representation before the Government. The warrant of detention was executed on 05.03.2025 as petitioner was absconding since 2023. According to the respondents, the notice of order/grounds of detention along with dossier were given to the petitioner, read over and explained to him in Urdu and Guggari/Kashmiri language, which he understood fully.

15. Finally, it is the contention of the respondents that since activities of the petitioner were anti-national and anti-social, prejudicial to the security and peaceful atmosphere of Gool and its adjoining areas, impugned detention order was issued against him, in execution whereof he came to be detained. Respondents have prayed for dismissal of the writ petition.

16. Heard learned counsels for the parties and perused the detention record.

17. Mr. Wani, learned counsel for the petitioner, at the outset has argued that petitioner has been released in all the criminal cases which came to be registered against him from time to time. The argument of learned counsel for the petitioner is contrary to the stand of the petitioner in the petition that he has been acquitted in four FIRs out of 12 registered against him. Be that as it may, petitioner has not produced copy of any judgment of the competent court to indicate that he has been acquitted in any case out of the 12 FIRs mentioned in the dossier and the grounds of detention.

18. Most of the FIRs registered against the petitioner are with respect to very serious offences of murder under Section 302 RPC, Arms Act and Explosive Substances Act, etc. In addition to the 12 FIRs against him, 12 reports came to be entered against the petitioner in the Daily Dairy Register of Police Station Gool, on the basis of source information that petitioner was instigating and provoking general masses of Gool and surrounding areas against the Government to disrupt peace and law and order. Therefore, it is manifest that detaining authority has derived subjective satisfaction not only on the basis of a dozen FIRs registered against the petitioner, but also because, he did not desist from anti-national activities thereafter and a dozen DDRs came to be entered against him in Police Station Gool.

19. It is by far crystallized now that even a single organized activity may be sufficient to sustain an order of detention. However, in the present case, as noted, it is not one FIR on the basis of which detaining authority has derived subjective satisfaction, but there are as many as a dozen FIRs registered against the petitioner under very serious offences of murder, Explosive Substances Act and Arms Act, which failed to deter him from indulging in similar activities. It was on this basis that detaining authority has come to the conclusion that normal law of land was not sufficient to prevent him from indulging in activities prejudicial to the National security.

20. Contention of the petitioner that allegations reflected in the grounds of detention are vague and based on assumptions and presumptions of the detaining authority is misconceived, because if detaining authority, on the basis of the dossier and the material placed before it, is satisfied that normal law of land has failed to prevent the detainee from indulging in anti-national activities, it is within its right to take recourse to the provisions of Public Safety Act.

21. The very concept of maintenance of public order, within the meaning of Section 8 PSA is preventive in nature, i.e., to prevent a person from indulging in anti-national activities. It is not preventive. Section 8 PSA, for the facility of reference, is extracted below:-

8. Detention of certain persons.

(1) The Government may-

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to

(i) the security of the State or the maintenance of the public order; or

(ii) [Omitted]

(a-1) if satisfied with respect to any person that with a view to preventing him from-

- (i) smuggling [timber, or liquor]; or
- (ii) abetting the smuggling of [timber, or liquor]: or
- (iii) engaging in transporting or concealing or keeping smuggled timber, or
- (iv) dealing the smuggled timber otherwise than by engaging in transporting or concealing or keeping in smuggled [timber, or liquor]: or
- (v) harbouring persons engaged in smuggling of timber or abetting the smuggling of [timber, or liquor]; or

(b) if satisfied with respect of such person who is-

- (i) a foreigner within the meaning of the Foreigners Act; 1946, or
- (ii) a person residing in the area of the State under the occupation of Pakistan

that with a view to regulating his continued presence in the State or with a view to making arrangements for his expulsion from the State, it is necessary so to do, make an order directing that such person be detained.

(2) Any of the following officers, namely

- (i) Divisional Commissioners,
- (ii) District Magistrate,

may, if satisfied as provided in sub-clause (i) and (ii) of clause (a) or of sub-section (1), exercise the powers conferred by the said sub-section.

(3) For the purposes of sub-section (1)

(a) [Omitted.]

(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;

(c) ["smuggling" in relation to timber or liquor means possessing or carrying of illicit timber or liquor and includes any act which will render the timber or liquor liable to confiscation under the Jammu and Kashmir Forest Act, Samvat, 1987 or under the Jammu and Kashmir Excise Act, 1958, as the case may be,]

(d) ["timber" means timber of Fir, Kail, Chiror Deodar tree whether in logs or cut up in pieces but does not include firewood.]

(e) "Liquor" includes all alcoholic beverages including beer.

(4) When any order is made under this section by an officer mentioned in sub-section (2) he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the Government."

22. From a plain reading of sub-section 1 of Section 8 PSA, it is manifest that Government may, if satisfied with respect to any person that with a view to prevent him from acting in any manner prejudicial to the security of the State or maintenance of public order, it is necessary so to do, make an order directing that such a person be detained.

23. Section 8(3) PSA enumerates various prejudicial activities that would fall within the mischief of "acting in any manner prejudicial to the maintenance of public order". It includes within its fold prejudicial activities in the nature of promoting, propagating or attempting to create, feelings of enmity or hatred or disharmony on the ground of religion, race, community or region or the activities of 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. “Acting in any manner, which is prejudicial to maintenance to public order”, also consists of 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.

24. The detaining authority, in terms of sub section 4 of Section 8 PSA, is obliged to report the fact to the Government together with the grounds on which the order has been made including other particulars those in his opinion have a bearing on the matter, and it is provided that no such order shall remain in force for more than twelve days after making thereof, unless in the interregnum, it has been approved by the Government.

25. In the present case, the detaining authority forwarded a copy of the impugned detention order to the Government, Home Department, J&K, for approval, and the Government, vide Government Order No. Home/PB-V/1669 of 2024 dated 13.08.2024, accorded approval as envisaged under Section 8(4) of PSA. It is evident that immediately after issuance of the impugned order, the detaining authority made an endorsement and reported the matter to the Government, and the Department of Home accorded approval to the impugned detention order. It is thus manifest that mandatory provisions of PSA have been strictly adhered to by the detaining authority and the Government.

26. The next ground urged by the petitioner is that grounds of detention, the detention order and dossier were not furnished to him within the stipulated period prescribed under Section 13 PSA and were neither read over nor

explained to him in the language understood by him, thereby preventing him from making an effective representation against his detention.

27. There is no dispute to the settled position of law that right of representation against a detention order is a facet of fundamental right guaranteed under Article 22 (5) of the Constitution of India, and if this right is transgressed, the detention stands vitiated.

28. Section 13 PSA provides that when a person is detained pursuant to a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days, and in exceptional circumstances, for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him, in a language understandable to him, the grounds on which the order has been made and afford him the earliest opportunity to make a representation against the detention order.

29. It is indeed a settled position of law that “communication” as envisaged under Section 13 PSA means bringing home to the detainee effective knowledge of facts and grounds on which detention order is made. The grounds of detention must be read over and explained to the detainee in a language fully understood by him and in a script which he can read, so as to satisfy the requirement of law.

30. A perusal of the detention record would reveal that impugned detention order was passed by the detaining authority on 04.08.2024 and was executed on 05.03.2025. According to the detaining authority, the petitioner/detentue had been absconding since 2023 and, after strenuous efforts, he could be arrested only on 04.03.2025 from Dharam area of Gool. The record further shows that upon execution of the impugned order, 327 leaves of documents including notice of detention/grounds of detention along with dossier, were furnished to

the petitioner. Same were read over and explained to him in Urdu and Guggari/Kashmir language, which he fully understood and he put his signatures in acknowledgement that these documents were supplied and were read over and explained to him. In addition, petitioner was informed of his right to make representation to the Government and the detaining authority against his detention, if he so desired. The respondents, in their counter affidavit, have also taken the stand that all the relevant documents/material were provided to the petitioner and that his signatures were obtained by the detaining authority in acknowledgment of receipt. It has been specifically stated that documents were read over and explained to him in his language, which he understood, and that he was informed about his right to make a representation. The petitioner has not filed any rejoinder to refute the stand of the respondents that relevant material was furnished to him, it was read over and explained to him in his language, and he was informed about his constitutional right to make representation. Since respondents, in their counter affidavit, have controverted allegations of the petitioner that material was not supplied, it was not read over and explained to him in his language, and he was not informed of his right to make an effective representation, it was incumbent upon the petitioner to rebut the stand of the respondents-detaining authority by filing a rejoinder, which he has failed to do. Therefore, stand of the respondents in this respect remains unrebutted. It implies that respondents have scrupulously adhered to the statutory and constitutional obligations on their part.

31. Another ground urged by the petitioner is that grounds of detention are a verbatim copy of the dossier submitted by respondent no. 3 and respondent no. 2-Detaining Authority has failed to record independent subjective satisfaction that his alleged activities are prejudicial to the maintenance of public order. The

contention of learned counsel for the petitioner is legally flawed, as this Court, in exercise of its writ jurisdiction, cannot scrutinize the merits or demerits of the administrative decision to detain a person.

32. It is exclusive domain of the administration to maintain public peace and tranquility and to ensure security of the UT. The subjective satisfaction of detaining authority, particularly when ordinary law of the land has not proved sufficient to deter him from indulging in anti-national activities, is not open to objective assessment of this Court in the exercise of its writ jurisdiction.

33. The High Court, while exercising writ jurisdiction, cannot act as a court of appeal to find fault with the subjective satisfaction of the detaining authority. It has no jurisdiction or power to substitute its satisfaction with that of the detaining authority or to decide whether satisfaction arrived at by the detaining authority was reasonable and whether, in the circumstances of the case, a particular person can be detained or not.

34. The contention of the petitioner that impugned order is based on assumptions of the detaining authority that he may provoke youth of the area into anti-national and criminal activities is also misconceived. It is settled in law that power of preventive detention is not exercised as a measure of punishment. It is preventive in nature. It may or may not relate to a criminal offence or registration of an FIR. It is precautionary in nature and can be exercised on reasonable apprehension and anticipation. The basis of detention is the subjective satisfaction of the detaining authority on a reasonable likelihood of the detenu acting in a manner similar to his past activities, which may prove prejudicial to the security of the State/UT, and detention order is passed to prevent him from indulging in similar activities.

35. Here we may gainfully refer to the observations of Hon'ble Supreme Court in **Haradhan Saha vs. State of W.B.; (1975) 3 SCC 198:-**

“32. The power of preventive detention is qualitatively different from punitive detention. The power of preventive detention is a precautionary power exercised in reasonable anticipation. It may or may not relate to an offence. It is not a parallel proceeding. It does not overlap with prosecution even if it relies on certain facts for which prosecution may be launched or may have been launched. An order of preventive detention, may be made before or during prosecution. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even acquittal. The pendency of prosecution is no bar to an order of preventive detention. An order of preventive detention is also not a bar to prosecution.

33. Article 14 is inapplicable because preventive detention and prosecution are not synonymous. The purposes are different. The authorities are different. The nature of proceedings is different. In a prosecution an accused is sought to be punished for a past act. In preventive detention, the past act is merely the material for inference about the future course of probable conduct on the part of the detenu.”

36. A similar view has been taken by the Apex Court in **Naresh Kumar Goyal vs. Union of India; (2005) 8 SCC 276:-**

“It is trite law that an order of detention is not a curative or reformatory or punitive action, but a preventive action, avowed object of which being to prevent the anti-social and subversive elements from imperiling the welfare of the country or the security of the nation or from disturbing the public tranquility or from indulging in smuggling activities or from engaging in illicit traffic in narcotic drugs and psychotropic substances etc. Preventive Detention is devised to afford protection to society. The authorities on the subject have consistently taken the view that preventive detention is devised to afford protection to society. The object is not to punish a man for having done something but to intercept before he does it, and to prevent him from doing so.”

37. It is manifest from a plain reading of the grounds of detention and the impugned detention order that, despite a dozen FIRs lodged against the petitioner for serious offences of murder and offences under the Explosive Substances Act and Arms Act, and a dozen DDRs entered in his name in the concerned police station, he continued to indulge in anti-national and anti-social activities. These cases failed to deter him from indulging in activities prejudicial to the security of the UT and the country. It appears from the tone and tenor of the impugned order and the grounds of detention that, when he was put under

close surveillance, it came to light from sister agencies that petitioner was instigating and provoking youth of the area and its surroundings against the Government with the intention to disrupt peace and tranquility. It was apprehended that he may create communal tension to threaten the sovereignty and integrity of the UT of J&K and the country.

38. The contention of the petitioner that detaining authority has unreasonably and arbitrarily passed the impugned order in a mechanical fashion without proper application of mind, in the circumstances of the case, deserves outright rejection. The details of multiple FIRs and DDRs registered against the petitioner with reference to his past activities, in fact, manifest the awareness of the detaining authority and application of mind on its part before it embarked upon to pass the impugned detention order. Therefore, the impugned order, having regard to the circumstances of the case, appears to have been passed by the detaining authority on a reasonable prognosis of his future behavior based on his past conduct and in the light of attending circumstances. This Court, in exercise of writ jurisdiction, has a very limited scope to scrutinize the grounds of detention. As observed, the writ court cannot examine the sufficiency of material or sit in appeal over the subjective decision of the detaining authority to substitute its own opinion, when grounds of detention are precise, pertinent and proximate.

39. For what has been observed and discussed above, the grounds of detention, on the basis of which impugned order came to be passed by the detaining authority, are not only found to be definite but also free from any ambiguity. The petitioner has been informed with sufficient clarity about the said grounds and allegations against him in the language which he fully understood. What weighed with the detaining authority at the time of passing of

the impugned order are the narrated facts and figures in detail, which constrained it to exercise its power under Section 8 PSA after recording the satisfaction that he was required to be placed under preventive detention in order to prevent him from indulging in activities prejudicial to the security of the UT and sovereignty of the country.

40. Viewed from any angle, I do not find any illegality and impropriety in the impugned order of detention. Hence, present petition is dismissed and impugned order is upheld.

(Rajesh Sekhri)
Judge

JAMMU
26.02.2026.
Abinash

