

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

Reserved on: 21.04.2026
Pronounced on: 21.05.2026
Uploaded on: 21.05.2026

Whether operative part or full
judgment is pronounced: **Full**

CJ Court

**LPA No. 159/2025 in
(HCP No. 154/2024),
CM No. 5039/2025**

Rehmatullah, age 28 years, S/o Abdul
Ghani Padder, R/o Dessa Bhata, Doda,
A/p Ward No. 7, H. No. 32 Akramabad,
Tehsil and District Doda

...APPELLANTS(S)

Through: - Mr. M. A. Bhat, Advocate

Vs.

1. The Union Territory of J&K through its
Commissioner/ Secretary Home Department,
Civil Secretariat, Jammu -180001
2. The Chairman, Advisory Board (constituted
under J&K Public Safety Act, 1978) Mini Block
Civil Secretariat, Jammu.
3. The District Magistrate, Doda
4. The Senior Superintendent of Police, Doda-
182202
5. The Superintendent, Central Jail, Kot Bhalwal,
Jammu.

...RESPONDENT(S)

Through: - Ms. Monika Kohli, Sr. AAG

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT

OSWAL 'J'

1. Impugned in this appeal is the judgment dated 22.07.2025 rendered by
the learned Writ Court in HCP No.154/2024, whereby the writ petition

preferred by the appellant challenging the order of detention bearing No. PSA-02 of 2024 dated 09.11.2024, issued by respondent No.3-District Magistrate, Doda (hereinafter referred to as “the detaining authority”), came to be dismissed.

2. Aggrieved by the aforesaid judgment, the appellant has filed the instant appeal on the following grounds, among others:

- (i) That the grounds of detention rely on five FIRs registered against the appellant (FIR Nos. 173/2016, 177/2016, 82/2021, 178/2023, and 192/2024). However, the appellant stands discharged in FIR No. 173/2016 and has been discharged of all major offences in FIR No. 177/2016, while the remaining FIRs pertain to ordinary law and order issues that bear no nexus to the objects of the Public Safety Act;
- (ii) That the representation submitted by the appellant was either not considered in accordance with law or, in any case, the outcome thereof was never communicated to him, thereby infringing the constitutional safeguards guaranteed under Article 22(5) of the Constitution;
- (iii) That the detention order has been passed in a mechanical manner on vague and omnibus allegations without independent application of mind;
- (iv) That the alleged activities of the appellant do not constitute a threat to the security of the State or disturbance of public order.

- 3) Mr. M. A. Bhat, learned counsel for the appellant, submitted that although the appellant had submitted a representation against the detention order before the competent authority, the same was neither considered in accordance with law nor was any decision thereon ever communicated to him. He further argued that the appellant stands fully discharged in FIR No. 173/2016 and discharged of major offences in FIR No. 177/2016, while the remaining FIRs pertain strictly to routine law and order matters. Consequently, counsel contended that no fresh prejudicial activity has been attributed to the appellant to warrant the invocation of preventive detention.
4. *Per contra*, Mrs. Monika Kohli, learned Sr. AAG, argued that the learned Writ Court has rightly appreciated the matter and that all procedural safeguards as envisaged under the Constitution and the Public Safety Act were duly complied with while passing and executing the detention order.
5. We have heard learned counsel for the parties and perused the record, including the detention record.
6. The core issue which goes to the root of the matter pertains to the consideration and communication of decision on the representation submitted by the appellant's brother.
7. The detention record indicates that the appellants brother submitted a representation dated 22.11.2024 to the Chairman of the Advisory Board, the Commissioner/Secretary to the Government (Home Department), and the District Magistrate, Doda. Respondent No. 3

rejected the representation on 05.12.2024, but the outcome was never communicated to the appellant. Respondent No.1 rejected the representation on 21.01.2025 and communicated the decision to the detenu, but the date of communication is not specified. Crucially, even if communication is assumed to have taken place on 21.01.2025, respondent No.1 took more than one and a half months to decide the representation, creating an impermissible delay.

8. The law is well settled that the right to make a representation against a detention order includes the valuable right to its expeditious consideration and the prompt communication of the decision to the detenu. Failure to communicate the decision, or an inordinate delay in its consideration, inherently vitiates the order and renders the continued detention illegal. In this context, reference may be made to the judgment of the Hon'ble Supreme Court in "***Sarabjeet Singh Mokha vs. District Magistrate, Jabalpur and others, (2021) 20 SCC 98***", wherein it has been held that delay in disposal of representation and failure to communicate the decision strikes at the heart of the procedural safeguards guaranteed to the detenu and vitiates the detention. The governing principle is laid down in paragraph 47 of the judgment. The relevant extract reads as under:

“47. By delaying its decision on the representation, the State Government deprived the detenu of the valuable right which emanates from the provisions of Section 8(1) of having the representation being considered expeditiously. As we have noted earlier, the communication of the grounds of detention to the detenu “as soon as may be” and the affording to the detenu of the earliest opportunity of making a representation against the order of detention to the appropriate government are intended to ensure that the representation of the detenu is considered by the appropriate government with a sense of immediacy. The State Government failed to do so. The making of a reference to the

Advisory Board could not have furnished any justification for the State Government not to deal with the representation independently at the earliest. The delay by the State Government in disposing of the representation and by the Central and State Governments in communicating such rejection, strikes at the heart of the procedural rights and guarantees granted to the detenu. It is necessary to understand that the law provides for such procedural safeguards to balance the wide powers granted to the executive under the NSA. The State Government cannot expect this Court to uphold its powers of subjective satisfaction to detain a person, while violating the procedural guarantees of the detenu that are fundamental to the laws of preventive detention enshrined in the Constitution.”

9. We have also examined the judgment rendered by the learned Writ Court and find that the aforesaid crucial aspect has not been properly adverted to. As such, the impugned judgment cannot be sustained.
10. Accordingly, the instant appeal is allowed. The judgment rendered by the learned Writ Court is set aside. Consequently, the order of detention bearing No. No. PSA-02 of 2024 dated 09.11.2024, issued by respondent No.3–District Magistrate, Doda is quashed. The appellant is directed to be released from custody forthwith, provided he is not required in any other case.
11. The detention record be returned to the learned counsel for the respondent.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

JAMMU
21.05.2026
Karam Chand

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