

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

CJ Court

**LPA No. 228/2025 in
HCP No. 55/2025**

Reserved on: 28.01.2026

Pronounced on: 05.02.2026

Uploaded on: 05.02.2026

Whether the operative part or full judgment
is pronounced: Full judgment.

1. Mohd. Riaz Malik

Aged 42 years, S/O Fiaz Akbar R/O
Village Azamabad, Tehsil Mandi District
Poonch

Presently detained in Central Jail Kot
Bhalwal, Jammu.

Th. his brother namely Manzoor Ahmed
Aged 61 years S/O Faiz Akbar R/O
Village Azamabad, Tehsil Mandi District
Poonch PIN 185102

.....Appellant(s)/Petitioner(s)

Through: Mr. S. H. Rather, Advocate.

Vs

**1. UT of J&K Th. Commissioner/Secretary
to Govt. Home Dept. Civil Secretariat,
Jammu**

2. District Magistrate, Poonch.

**3. Senior Superintendent of Police,
Poonch.**

..... Respondent(s)

**4. Superintendent, Central Jail, Kot
Bhalwal, Jammu**

Through: Ms. Monika Kohli, Sr. AAG.

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

JUDGMENT

(Oswal-J)

1. This intra-court appeal is directed against the judgment dated 25.09.2025 passed by the learned Writ Court in HCP No. 55/2025 titled “*Mohd. Riaz Malik vs. UT of J&K and others*” by virtue of which the Habeas Corpus petition filed by the appellant against the order of detention bearing No. DMP/PSA/02 of 2025 dated 04.04.2025 issued by the respondent No. 2, has been dismissed.
2. It is contended by the appellant that the grounds of detention are the verbatim reproduction of the police dossier submitted by the respondent No. 3, which clearly demonstrates non-application of mind by the Detaining Authority i.e. respondent No. 2. It is also urged that even if the allegations in the grounds of detention are accepted, they relate to ‘law and order’ and not to ‘public order’ and further that the appellant was not provided with all the documents relied upon by the Detaining Authority. The appellant has further contended that FIR No. 0004/2025 registered under Sections 324(4), 3(5) of BNSS and Section 3 of the Public Property (Prevention of Damages) Act, has wrongly been relied upon to justify the detention of the appellant, as the appellant was not named as accused in the said the FIR.
3. Mr. S. H. Rather, learned counsel for the appellant, has vehemently argued that the grounds of detention are the verbatim reproduction of the dossier submitted by the respondent No. 3 to respondent No. 2 for detaining the appellant under the Act and, as such, the order of detention is not sustainable in the eyes of law. He has further argued that the appellant has

been slapped with the detention order only because he had filed the writ petition bearing WP(C) No. 1455/2022 and LPA No. 86/2022 against influential persons for encroaching upon the State Land. He has placed reliance upon the judgment of the Apex Court in case titled as “**Jai Singh v. State of J&K**” reported in (1985) 1 SCC 561 and “**Rajesh Vashdev Adnani v. State of Maharashtra**” reported in (2005) 8 SCC 390.

4. *Per contra*, Ms. Monika Kohli, learned Senior AAG appearing for the respondents has submitted that all the procedural requirements as envisaged in the J&K Public Safety Act and the Constitution of India have been meticulously followed by the respondents not only at the time of issuance of the detention order but also at the time of execution of the same.
5. Heard and perused the record.
6. The record shows that the grounds of detention issued by Respondent No. 2 are a verbatim copy of the dossier submitted by Respondent No. 3 on 29.03.2025. This total overlap demonstrates a lack of independent evaluation. Since the Detaining Authority is legally required to derive its own 'subjective satisfaction' rather than simply adopting the Sponsoring Agency's report, the detention order is legally untenable and is liable to be set aside.
7. Reliance is placed upon the decision of Apex Court in case titled “**Jai Singh v. State of J&K**” reported in (1985) 1 SCC 561 and the relevant portion is reproduced as under:

"-----First taking up the case of Jai Singh, the first of the petitioners before us, a perusal of the grounds of detention shows that it is a verbatim reproduction of the dossier submitted by the Senior Superintendent of Police, Udhampur to the

District Magistrate requesting that a detention order may kindly be issued. At the top of the dossier, the name is mentioned as Sardar Jai Singh, father's name is mentioned as Sardar Ram Singh and the address is given as Village Bharakh, Tehsil Reasi. Thereafter it is recited "The subject is an important member of...." Thereafter follow various allegations against Jai Singh, paragraph by paragraph. In the grounds of detention, all that the District Magistrate has done is to change the first three words "the subject is" into "you Jai Singh, s/o Ram Singh, resident of Village Bharakh, Tehsil Reasi". Thereafter word for word the police dossier is repeated and the word "he" wherever it occurs referring to Jai Singh in the dossier is changed into "you" in the grounds of detention. We are afraid it is difficult to find greater proof of non-application of mind. The liberty of a subject is a serious matter and it is not to be trifled with in this casual, indifferent and routine manner."

8. Further, in case titled “**Rajesh Vashdev Adnani v. State of Maharashtra**” reported in (2005) 8 SCC 390 the Apex Court quashed the order of detention, as the detention order was the verbatim reproduction of the proposal of the sponsoring authority.
9. As we have already arrived at the conclusion that the order of detention cannot be sustained on the abovementioned sole ground, we do not find any necessity to adjudicate the other grounds raised by the appellant.
10. We have examined the judgment passed by the learned Writ Court, and we find that the learned Writ Court has not considered the issue at all as considered by us.
11. In view of the above, the instant appeal is allowed and the judgment dated 25.09.2025 passed by the learned Writ Court is set-aside, and the order of detention bearing No. DMP/PSA/02 of 2025 dated 04.04.2025 issued by the respondent No. 2 is quashed. The detainee is directed to be released forthwith from the custody, provided he is not required in any other case.

12. Detention record be returned back to Ms. Monika Kohli, learned Senior AAG against proper receipt.
13. **Disposed of** along with the connected application, if any.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
05.02.2026
Sahil Padha

Whether the order is speaking:
Whether the order is reportable:

Yes/No.
Yes/No.

