

Regular List
Serial No. 10

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

HCP No. 154/2025

Date of pronouncement : 23.04.2026
Uploaded on : 06.05.2026

Talab Hussain
.....Petitioner

Through:- Mr. M. K. Sharma, Advocate

V/s

UT of J&K & Ors.
.....Respondents

Through:- Mr. Suneel Malhotra, GA

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT (ORAL)

1. Heard Mr. M. K. Sharma, Advocate appearing for the petitioner as well as Mr. Suneel Malhotra, learned Government Advocate for the respondents.
2. Perused the writ pleadings and the documents attached therewith and also perused the detention record produced from the end of Mr. Suneel Malhotra, learned Government Advocate for the respondents.
3. The petitioner, through the medium of present petition filed on **24.10.2025** acting through his wife, sought the writ jurisdiction of this Court for quashment of a preventive detention order **No. PSA/156** dated **20.05.2025** passed by the District Magistrate, Kathua under Jammu and Kashmir Public

Safety Act, 1978, pursuant to which he came to be taken into preventive detention custody on **29.05.2025**.

4. Detention of the petitioner was ordered in order to prevent him in indulging in activities prejudicial to the maintenance of public order.

5. The adverse antecedents which came to form basis for the preventive detention custody of the petitioner have been spelled out in the grounds of detention formulated by the District Magistrate, Kathua. In that regard, right from **FIR No. 13/2010** as first FIR and last **FIR No. 02/2022** of Police Station, Hiranagar have come to be referred along with four Daily Diary Reports (DDRs) of Police Station, Hiranagar to form basis and live link for the petitioner to be detained under Jammu and Kashmir Public Safety Act, 1978.

6. The case for preventive detention of the petitioner was put forth by the Senior Superintendent of Police (SSP), Kathua by virtue of a communication **No. Pros/27268-71/DPOK** dated **16.05.2025**.

7. The petitioner has assailed his preventive detention *inter alia* on the grounds as set out in para 8 (i) to 8 (xx) alleging procedural non-compliances envisaged under article 22 of the Constitution of India as also under Jammu and Kashmir, Public Safety Act, 1978. The petitioner has also vehemently said that all the stale grounds have been pressed against him to subject him to loss of personal liberty and, thus, the preventive detention has been inflicted upon him with a punitive detention

mindset with advance serving of his sentence which otherwise meant to come only from the ongoing criminal cases against the petitioner before the ordinary criminal courts of law of land.

8. When this court examines the grounds of detention, then the alleged latest cause is acts of omission or commission amounting to offence is by reference to **FIR No. 11/2024** under section 188 IPC read with section 11 of PCA Act of Police Station, Hiranagar as is written in the grounds of detention.

9. Next to **FIR No. 11/2024** dated **19.01.2024** is **DDR No. 26** dated **29.01.2025** of Police Station, Hiranagar, meaning thereby during this intervening period, the petitioner had no adverse state of activity recorded or documented at the end of the Police Station and, therefore, this time gap would immediately delink all the referred FIRs from forming a serving ground of detention to be pressed into subjective formulation by the District Magistrate, Kathua.

10. By the exclusion of FIRs, the only thing which remains as the purported basis for detention of the petitioner is four Daily Diary Reports (DDRs), all of the month of **February 2025** of Police Station, Hiranagar.

11. Even if the contents of aforesaid four Daily Diary Reports (DDRs) are taken to be correct, still then the alleged state of activities of the petitioner, as reported in aforesaid four Daily Diary Reports (DDRs), could be a case at the best for booking the petitioner for proceedings under section 126 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) so as to bind him

on his bond as well as on bond of his surety so as not to indulge in any repeat act of omission or commission which potentially would disturb public peace and tranquility but a drastic resort to Jammu and Kashmir Public Safety Act, 1978 on the basis of aforesaid four Daily Diary Reports (DDR's) is quantum leap on the part of the Senior Superintendent of Police (SSP), Kathua as well as District Magistrate, Kathua in depriving a person of his fundamental right to liberty and if this course of option is left open to the District Police as well as District Magistrate, then any pretext can serve as a basis for depriving a person of his fundamental right to life and personal liberty, making fundamental right under article 21 of the Constitution of India a paper thing, always amenable to suffer violation and deprivation by a flight of fancy at the end of the District Police as well as District Magistrate .

12. On the basis of the aforesaid, this Court finds the preventive detention of the petitioner seriously flawed and, therefore, quashes the present detention order **No. PSA/156** dated **20.05.2025** of the respondent No.2 read with approval/confirmation/extension order on the basis whereof the petitioner is supposed to serve full one year of preventive custody.

13. The petitioner is, thus, ordered to be restored to his personal liberty forthwith by release from the concerned jail for which the Senior Superintendent of Police (SSP) and also

Superintendent concerned of the Jail shall release the petitioner forthwith.

(RAHUL BHARTI)
JUDGE

JAMMU
23.04.2026
Sneha

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No

