

Regular List
Serial No. 02

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

HCP No. 158/2025

Date of pronouncement : 30.04.2026
Uploaded on : 05.05.2026

Mohammad Nassar
.....Petitioner

Through:- Mr. Akeel Wani, Advocate

V/s

Union Territory of J&K & Ors.
.....Respondents

Through:- Mr. Deewakar Sharma, Dy. AG

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

1. Heard Mr. Akeel Wani, learned counsel for the petitioner and also Mr. Deewakar Sharma, learned Dy. AG for the respondents.
2. Perused the writ record in terms of pleadings and the documents annexed therewith from both ends and the detention record which has been produced by Mr. Deewakar Sharma, learned Dy. AG.
3. The petitioner- Mohammad Nassar alias Jiggarr, acting through his father Mohd Rafiq, came forward with institution of present petition on **06.11.2025** thereby seeking quashment of his preventive detention effected in terms of an order **No. DMP/PSA/06 of 2025** dated **20.08.2025** passed by the

respondent No.2- District Magistrate, Poonch, by purported reference to J&K Public Safety Act, 1978, ordering the preventive detention of the petitioner in order to prevent him from acting and indulging in activities to be prejudicial to the security of the State.

4. It is the Senior Superintendent of Police (SSP), Poonch who, in fact, had submitted a case, by virtue of communication **No. CS/PSA/25/4912** dated **05.08.2025** along with a dossier, to the respondent No.2- District Magistrate, Poonch thereby reporting the alleged state of activities of the petitioner on the basis whereof preventive detention of the petitioner was solicited by exercise of jurisdiction at the end of the respondent No.2- District Magistrate, Poonch.

5. In the dossier, the alleged criminal antecedents of the petitioner came to be highlighted by reference to three criminal cases which are as under:-सत्यमेव जयते

(i) FIR No. 17/2015

(ii) FIR No. 361/2021

(iii) FIR No. 91/2024

6. In addition, four instances of proceedings with respect to security for keeping the peace and good behavior came to be cited in relation to the petitioner so as to serve an underlying basis for seeking the preventive detention of the petitioner.

7. The respondent No.2- District Magistrate, Poonch at his end came forward with purported application of mind and formulated grounds of detention wherefrom he came to draw a subjective satisfaction that unrelenting criminal and

subversive behavior of the petitioner is posing a big threat to the security of the State and substantive laws have failed to deter him from acting in a manner prejudicial to public peace and tranquility as well as security of the State, thus, making need of an hour to isolate him from the society by his detention under J&K Public Safety Act which would then prevent him in indulging in criminal and anti-social activity.

8. On the purported basis of said grounds of detention, the preventive detention order **No. DMP/PSA/06 of 2025** dated **20.08.2025** came to be passed, ordering the detention of the petitioner and his confinement in District Jail, Rajouri.

9. The highlight reference in the detention order is that the petitioner is to be deterred from indulging in repeated acts of criminal/anti-social activities.

10. By virtue of communication **No. DMP/JC/9131-35** dated **20.08.2025**, the respondent No.2- District Magistrate, Poonch, meant to apprise the petitioner about the fact of passing of detention order against him and his constitutional right of making a representation both to the Government as well as to the Detaining Authority.

11. Pursuant to the detention order, the petitioner came to be taken into preventive detention arrest and custody when **PSI- Abdul Ghaffar PID No. 196647/EXJ of I/C BPP Mankote** carried out the execution of detention warrant by taking the petitioner into his custody on **20.08.2025** and handed over his person to the Superintendent District Jail, Rajouri.

12. The corresponding execution of receipt of detention warrant procured from the petitioner, attested by the Superintendent, District Jail, Rajouri is also to the effect that the Executing Officer informed the petitioner that he could make a representation to the Government against the detention order.

13. Thus, from a conjoint reading of the execution report of **PSI- Abdul Ghaffar PID No. 196647/EXJ of I/C BPP Mankote** and the receipt of detention warrant procured from the petitioner, it becomes an inescapable fact that the petitioner was apprised of his right to make a representation only by reference to the Government and not by reference to the detention-order making authority and that being the respondent No.2- District Magistrate, Poonch.

14. It is this singular illegality which vitiates the entire detention exercise against the petitioner without putting this Court to the labour of attending to the other salient aspect of the case as to when the preventive detention order No. **No. DMP/PSA/06 of 2025** came to be approved by the Government in terms of its order **No. Home/PB-V/1613 of 2025** dated **22.08.2025** followed by the Advisory Board's opinion which came to be tendered on **03.09.2025** and then issuance of Government order **No. Home/PB-V/1718 of 2025** dated **16.09.2025**, confirming the detention of the petitioner for a period of six months with effect from **20.08.2025** till **19.02.2026** in the course of which, the petitioner came

forward with institution of the present petition challenging his detention.

15. The petitioner did exercise his right of representation as was apprised to him by submitting a written representation dated **13.10.2025** through his father, addressed to the Government of UT of J&K through its Home Department but the petitioner surely was deprived of his right of making a representation to the preventive detention-making authority i.e., District Magistrate, Poonch as this Court has already found a serious procedural lacuna.

16. In the light of the aforesaid, the detention order **No. DMP/PSA/06 of 2025** dated **20.08.2025** is quashed. The petitioner is thus directed to be released from his preventive detention custody from the concerned jail wherever he is held up. Superintendent concerned of jail concerned to act in abidance.

17. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

JAMMU
30.04.2026
Sneha

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No