

Regular List
Serial No. 06

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

HCP No. 155/2024

Date of pronouncement : 09.04.2026
Uploaded on : 15.04.2026

**Gourav Gupta Alias Gourav
Jandial**

....Petitioners

Through:- Mr. Ankit Dogra, Advocate vice
Mr. Himanshu Beotra, Advocate

V/s

UT of J&K & Ors.

.....Respondents

Through:- Mr. Bhanu Jasrotia, GA

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

1. Heard Mr. Ankit Dogra, Advocate appearing vice Mr. Himanshu Beotra, Advocate for the petitioner as well as Mr. Bhanu Jasrotia, Government Advocate for the respondents.
2. Perused the writ pleadings and the documents attached therewith from both sides.
3. The petitioner rushed to this Court with institution of present writ petition taking place on **20.12.2024** upon getting confronted by the fact that the preventive detention order **No. 16/PSA of 2024** dated **07.05.2024** passed by the respondent No.2 District Magistrate, Samba under

Jammu and Kashmir Public Safety Act, 1978 was meant to detain him for the purpose of preventing him from acting in any manner prejudicial to the maintenance of public order and upon his arrest to be kept detained in district Kathua.

4. Thus, at the time of institution of the writ petition, the petitioner was yet to be taken into custody and, therefore, the writ petition was filed at the pre-execution stage of the detention warrant.

5. This Court came to grant indulgence by virtue of an order dated **23.12.2024** by staying the operation of preventive detention order **No. 16/PSA of 2024** dated **07.05.2024** and ever since then said detention order has remained frozen in terms of its effect and the writ petition is coming for its adjudication.

6. The case for preventive detention of the petitioner was put up by the District Police, Samba before the respondent No.2 District Magistrate, Samba thereby reporting that the petitioner's personal liberty was enabling him to indulge in activities prejudicial to the maintenance of the public order and, as such, requires issuance of detention order under Jammu and Kashmir Public Safety Act, 1978.

7. The respondent No.2 District Magistrate, Samba, purportedly acting upon said inputs of the District Police, Samba, felt persuaded to exercise powers conferred under section 8 (1) (a) (i) of the Jammu and Kashmir Public Safety

Act, 1978 and thus, issued detention order **No. 16/PSA of 2024.**

8. Without execution of the detention order, the Government came to lend its approval by virtue of Govt. Order **No. Home/PB-V/1022 of 2024** dated **15.05.2024.**

9. Despite issuance of the detention warrant, the petitioner was not found by the Police as well as the District Magistrate, Samba to suffer arrest and detention whereas the petitioner approached this Court with institution of the present writ petition under his own signature to assail that the exercise of Jammu and Kashmir Public Safety Act, 1978 against him at the instance of the District Police, Samba by the respondent No.2 District Magistrate, Samba was malice in law being sheer abuse of process of law for the reason being that in order to subvert the ordinary criminal procedure of law operating against the petitioner for his alleged involvement in **FIR No. 0052/2024**, the petitioner was meant to be subjected to punitive punishment through the mode of preventive detention.

10. The petitioner refers to the fact that he came to earn bail by the Chief Judicial Magistrate, Samba by virtue of order dated **20.11.2024** meaning thereby at the time of passing of the detention order, the petitioner was very much in submission to and before the ordinary course and court of law to the extent of seeking bail subject to the terms and conditions set out in bail order and that clearly meant that the petitioner was all along available to the

Police but despite that issuance of the detention order was more to make the petitioner on run.

11. **FIR No. 0052/2024** was registered against the petitioner on **13.04.2024** whereas the detention order from the end of the respondent No.2- District Magistrate, Samba came to be passed on **07.05.2025**.

12. It cannot be expected that the District Police, Samba as well as the District Magistrate of Samba were in total ignorance of the fact that the petitioner stood implicated in **FIR No. 0052/2024** who even had surrendered himself before the Court of Chief Judicial Magistrate, Samba in the matter of applying for grant of bail with an application instituted on **13.11.2024** and came to be granted bail vide order dated **20.11.2024** by furnishing of a personal as well as surety bond but still till the filing of this writ petition by the petitioner before this Court taking place on **20.12.2024**, the custody of the petitioner was never solicited by the District Police, Samba from the Chief Judicial Magistrate, Samba in connection with the chasing detention order.

13. It seems that even the Public Prosecutor representing UT of J&K through Police Station, Vijaypur was not aware of passing of a detention order against the petitioner otherwise the fact would not have find a miss in mention in the order dated **20.11.2024** of the Chief Judicial Magistrate, Samba.

14. The registration of **FIR No.52/2024** by the Police Station, Vijaypur against the petitioner and another co-accused may be for a very serious alleged commission of offences but still that would not have given liberty to the District Police, Samba to act in slumber while coming to the matter of seeking preventive detention of the petitioner without itself not knowing the very whereabouts of the petitioner, who otherwise was appearing before the Chief Judicial Magistrate, Samba, seeking bail and getting it by furnishing bail bond as well as surety bond.

15. In the light of the aforesaid, this Court finds that the exercise of preventive detention jurisdiction at the end of respondents No. 1 to 3 against the petitioner was illegal *per se* and, accordingly, the writ petition is allowed by quashing the detention order **No. 16/PSA of 2024** dated **07.05.2024** read with approval order **No. Home/PB-V/1022 of 2024** dated **15.05.2024**.

16. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

JAMMU
09.04.2026
Sneha

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No