

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

Reserved on: 21.09.2026

Pronounced on: 01.10.2026

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

HCP No.03/2026

MASHOOQ AHMAD SHAH

...PETITIONER(S)/ APPELLANT(S)

Through: - Mr. Wajid Haseeb, Advocate.

Vs.

UT OF J&K & ORS.

...RESPONDENT(S)

Through: - Mr. Bikramdeep Singh, Dy. AG.

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

JUDGMENT

1) This petition has been filed for quashing the order of detention bearing No.16/DMS/PSA of 2025 dated 23.12.2025 issued by respondent No.2-District Magistrate, Shopian.

2) The order of detention has been impugned on the following grounds:

- (a)** That the allegations leveled in the grounds of detention have no nexus with the detenu and the same have been fabricated by the police in order to justify the illegal order of detention and it appears

that the same has been passed against the wrong person.

- (b) That the allegations leveled in the grounds of detention are false, incorrect, vague and non-existent, on the basis of which no prudent man can make an effective representation against his detention. In fact, the allegations are illusory and without any material basis.
- (c) That the detaining authority has not applied its mind while passing the order of detention and has simply relied upon the police dossier, without perusing any supporting material relating to the case.
- (d) That the respondent No.2 has not provided the material as mentioned in para 2 onwards of the grounds of detention to the detenu.
- (e) That the petitioner is not an English knowing person and understands only Urdu and Kashmiri languages and the non-supply of the translated script of the grounds of detention and other material has resulted in ineffective service of detention record.
- (f) That the petitioner had submitted a representation against his representation, which was not considered reasonably and in accordance with law.

3) The respondents have filed the response stating therein that, as per the intelligence reports, the petitioner had shown tendency towards anti-national activities in his

locality and other parts of the district Shopian and based on the intelligence inputs, he was bound down under Section 126/170 BNSS. Despite these measures, the intelligence report continued to suggest that the petitioner was making efforts to contact the local youth. His repeated bound down had proven insufficient in deterring him from pursuing anti-national activities and if he is not stopped at this stage, there is risk that he may instigate the youth towards anti-national and terrorist activities during private gathering and informal discussions. It has been submitted that he was bound down by the Executive Magistrate 1st Class, Shopian, and was directed to attend the court from time to time, but he failed, which clearly indicates that he has no respect for judicial proceedings and the law of land. Thereafter, the impugned order of detention was passed in order to prevent the petitioner from acting in any manner prejudicial to the security of the State/Union Territory of J&K. The detention warrant was executed through Sub-Inspector Manzoor Ahmad of Police Station Heerpora on 26.12.2025, who handed over the detenu to the Superintendent Central Jail Kot Bhalwal, Jammu. The notice of detention was given to the petitioner and contents of detention warrant and the grounds of detention were read over to him in English and explained in Urdu/Kashmiri language, which he fully

understood and in acknowledgement thereof, he signed the execution report. It is also stated the detention order (01 leaf), notice of detention (01 leaf), grounds of detention (08 leaves), dossier (05 leaves) and other relevant document (25 leaves), in total- 40 leaves, were handed over to the petitioner and acknowledgment was also received from him regarding the receipt of the same. It is further stated that representation was submitted by the petitioner through his brother on 14th January 2026, and same was forwarded to the Government for consideration under an intimation to the brother of detenu. The Government vide communication dated 2nd March, 2026, has considered the representation and found the same without any merit. The disposal of the representation has been communicated to the petitioner through Superintendent Central Jail, Kot Bhalwal, Jammu.

4) Heard and perused the record.

5) The first contention raised by the petitioner is that the grounds of detention are vague, bereft of necessary details, and, as such, on these vague grounds, he could not have been detained.

6) In para (3) of the grounds of detention, it is stated that the petitioner attempted to establish connect with the youth of his locality and other parts of the district and due to

security concerns in the UT of J&K and as a preventive measure, the petitioner was bound down under Section 126/170 of BNSS. It is further stated that the petitioner could potentially be used as a conduit by the terrorist outfits to build underground networks or influence the environment.

7) The aforesaid allegations, *prima facie*, are vague and bereft of necessary particulars as to when the petitioner attempted to establish contact with the youth of the locality and who were the youth with whom the petitioner tried to establish contact. In the grounds of detention, it is further stated that the petitioner maintains close contact with the associations/persons previously noted for their extremist leanings, but here also the detaining authority has not bothered to name these associations/persons. The petitioner is right in submitting that the order of detention has been passed on vague grounds. Thus, the grounds, being vague and lacking in material particulars, the detenu could not have made an effective representation against his detention. Therefore, there has been violation of constitutional guarantees envisaged under Article 22(5) of the Constitution. Reliance is placed on judgment of the Supreme court in **“Jahangirkhan Fazalkhan Pathan V. Police Commissioner, Ahmedabad and another”** reported as

(1989) 3 SCC 590, where in it has been held that the order of detention passed on vague grounds deprives the petitioner of his right to make an effective representation against the order of detention.

8) From the above analysis of the law, it is manifest that vagueness of grounds of detention strikes at the root of the subjective satisfaction of the detaining authority thereby vitiating the order of detention. On this ground alone, the impugned order of detention is liable to be set aside.

9) The record further depicts that respondents have admitted to have received the representation on 14th January 2026 and have decided the same on 2nd of March 2026, meaning thereby there is delay of more than one and a half months in considering the representation. The question that arises for determination is as to whether delayed consideration of representation satisfies the requirement of law.

10) The aforesaid question has been answered by the Hon'ble Supreme Court of India in **Sarabjeet Singh Mokha vs. District Magistrate, Jabalpur and others** (2021) 20 SCC 98. It would be apt to refer to observations made by the Supreme Court in para 47 of the judgment, which are reproduced 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.”

11) From the aforesaid law laid down by the Hon’ble Apex Court, it is manifest that delaying of decision on the representation of the detenu amounts to an infringement of a valuable right which is available to a detenu in terms of provisions contained in Section 13 of the Jammu & Kashmir Public Safety Act, which makes it obligatory for the detaining

authority to communicate to the detainee the grounds on which the order of detention has been made within a maximum period of ten days from the date of detention and to afford him the earliest opportunity of making representation against the order of detention. The purpose of furnishing the grounds of detention within a maximum period of ten days is to enable a detainee to make a representation against the order of detention at the earliest opportunity. Thus, a duty is cast upon the detaining authority or the government to consider the said representation at the earliest opportunity. Failure to decide the representation of a detainee within a reasonable time in an expeditious manner strikes at the valuable right of a detainee emanating from the provisions of Section 13 of the Jammu & Kashmir Public Safety Act.

12) In the present case, there is no explanation from the side of the respondents with regard to the delay of more than one and a half months in deciding the representation of the petitioner. This unexplained slackness on the part of respondents to take a decision on the representation of the petitioner renders the impugned order of detention illegal.

13) For the afore-stated reasons, the petition is allowed and the impugned detention order is quashed. The respondents

are directed to release the petitioner from the preventive custody forthwith, provided he is not required in connection with any other case.

14) The detention record be returned to learned counsel for the respondents.

(Rajnish Oswal)
Judge

Srinagar,
01.10.2026
“Bhat Altaf-Secretary”

Whether the **judgment** is reportable: **YES**

