

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
HCP No. 14/2026

Reserved on: 20.07.2026
Pronounced on: 23.07.2026
Uploaded on: 23.07.2026
Whether the operative part or full
judgment is pronounced: *Full*

Musavir Nabi Bhat, Age 26 years
S/o Ghulam Nabi Bhat,
R/o Wanganpora Chandihar, Eidgah
(Through his father Ghulam Nabi Bhat)

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

Through: Ms. Nida Nazir, Adv.

Vs.

1. Union Territory of JK Th.
Commissioner Secretary to Govt.
Home Department, Civil Secretariat,
Srinagar/Jammu.

...Respondent(s)

2. District Magistrate, Srinagar.

3. Superintendent Central Jail, Jammu Kotbhalwal

Through: Mr. Haris Khan, Adv. vice
Mr. Mohsin S. Qadiri, Sr. AAG.

CORAM:

HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

J U D G M E N T

1. The petitioner has challenged the detention order No. DMS/PSA/08/2026 dated 29 January 2026 issued by District Magistrate, Srinagar-respondent No. 2 (for brevity “detaining authority”) under the provisions of J&K Public Safety Act, (Act of 1978) whereby the petitioner-Musavir Nabi Bhat (for short “the detenu”) was directed to be detained to prevent him from acting in any manner prejudicial to the security of the State and has been lodged in Central Jail Kotbhalwal, Jammu.

2. The contention of the petitioner is that he has been subjected to the third successive preventive detention order under the provisions of Act of 1978 on substantially the same allegations revolving around FIR Nos.

51/2017 and 52/2017 of Police Station, Nowhatta under Section 148, 149, 341, 392, 302 RPC and 13 ULA(P) Act.

3. The petitioner has contended that once the earlier two detention orders have been quashed by the High Court, the grounds of said detention orders should not be taken into consideration for deriving the subjective satisfaction to pass a fresh detention order. Therefore, the principal argument of the learned counsel for the petitioner is that the detenu has been booked and detained under the provisions of the Act of 1978 exactly on the same material and grounds which were the subject matter of earlier two detention orders which stood quashed by the High Court. Therefore, the impugned detention order suffers from non-application of mind and the petitioner prays for its quashment and release of the detenu from preventive custody.

4. The respondents have filed the reply affidavit wherein they have disputed the averments made in the petition and contended that while passing the detention order, they have duly complied with the requirement of Act of 1978 and also the safeguards as provided under Article 22(5) of the Constitution of India. According to respondents, grounds of detention and all the relevant material on the basis of which the detaining authority had derived its subjective satisfaction has been duly supplied to the detenu. It is on the basis of this material, the Advisory Board has confirmed the detention order passed against the petitioner.

5. The contention of the respondents is that after the quashment of second detention order, it was found that the detenu had resumed his activities with secrecy and had undertaken activities posing an imminent threat to the security of the Union Territory of Jammu and Kashmir in league with handlers via encrypted devices; therefore, he was bound down under

Section 126/170 of BNSS on 20-22 January 2026 by Police Station, Khanyar, and the same has been diarized on 23 January 2026 in the beat book of Police Station, Khanyar.

6. Heard learned counsel for the parties and perused the detention record.

7. Learned counsel for the petitioner while seeking the quashment of the impugned order, restricted her arguments on the ground that earlier two consecutive detention orders passed against the detenu were quashed by the High Court; however, the third detention order which is subject matter of challenge in the present writ petition has been passed on the same facts and grounds, which demonstrates non-application of mind by the detaining authority. Accordingly, she prays for quashment of the detention order and release of the detenu.

8. Indisputably, the detenu is taken in preventive detention in pursuance of the third detention order. The first detention order was subject matter of WP(Crl) No. 708/2022, and was quashed by the High Court on 6 September 2024 primarily on the ground of non-supply of material, holding it to be a violation of Article 22 (5) of the Constitution of India and resultant breach of the effective right of the detenu to make a meaningful representation against the detention order. Thereupon, the second detention order dated 11 October 2024 was passed against the petitioner, which was the subject matter of HCP No. 354/2024 and the same was also quashed vide order dated 26 December 2025, by holding that the grounds of detention were a replica of the Dossier and the detaining authority had relied upon similar grounds while passing the second detention order, and there was no live/proximate link between the prejudicial activities and the purpose of detention.

9. It is in the afore-stated backdrop that the learned counsel for the petitioner has vehemently argued that the third impugned detention order in a row has been passed on the similar grounds on the basis of which earlier two detention orders were quashed by the High Court. Therefore, the entire records/grounds stand nullified and, thus, a fresh detention order cannot in law draw subjective satisfaction from the previous grounds even if some fresh facts are added.

10. The perusal of detention record reveals that the detenu has received the grounds of detention and other relevant material comprising 84 leaves, duly signed by him, whereby he has acknowledged that the grounds of detention were read over and explained to him in Urdu/Kashmiri languages which he fully understands. It has been further seen that the detenu has been duly informed about his right to make a representation to the Government as well as the detaining authority against the detention order.

11. The detention record conspicuously depicts that the Screening Committee has duly examined the existence of live-link between the last prejudicial activity and the date of occurrence of the incident that occasioned the steps for detention under PSA and had come to the conclusion that the detenu, after being released from the previous preventive detention, had again indulged in anti-national activities.

12. As per inputs received from field formations, the detenu was found to have indulged in unlawful activities in the area discretely in order to avoid the rigors of law. Therefore, he was bound down in terms of Section 170/BNSS on 20 and 22 January 2026; besides, his name was diarized in the beat book on 23 January 2026. It is specifically noted that the detenu is proving to be the hardcore associate of an OGW of LeT and is clandestinely

involved in continuous unlawful activities in the area. Therefore, detention under the Act of 1978 was found to have become imperative on the basis of the information gathered regarding the anti-social activities touching upon the security of the State.

13. At this stage, it needs to be noticed that what is gathered from the record is that the material including the grounds of detention has been completely supplied to the detenu against a proper receipt and also explained in the language he understands. The order of detention has further been confirmed by the competent authority after deriving its subjective satisfaction from the grounds of detention.

14. The impugned order was passed on 29 January 2026, but the detenu found to have indulged, immediately after his release, in the activities which are prejudicial to the security of the State in league with the handlers via encrypted devices, therefore, he was bound down under Section 126/170 of BNSS immediately before passing of the impugned detention order. That itself is testimony of the fact that the circumstances which compelled the authorities to take preventive action against the detenu under Section 120/170 BNSS supply a fresh and proximate material for the preventive detention of the petitioner.

15. There is no gainsaying that in the grounds of detention, a reference to the earlier FIRs and grounds constituting alleged activities prejudicial to the security of the State also find its mention in the impugned detention order, but primarily the detaining authority has drawn its satisfaction on the basis of the inputs received from the field formations regarding indulgence of the petitioner in the activities prejudicial to the security, which have been duly entered in the beat book of Police Station, Khanyar, on 23 January 2026, i.e.

just six days before passing of the impugned detention order. Therefore, to say that mere reference to the earlier material amounts to repetition is neither factually correct nor legally tenable.

16. The immediately action of the police concerned under the provisions of Bharatiya Nagarik Suraksha Sanhita, provides a dated, verifiable event close to the detention order. All the material relied upon by the detaining authority was fully supplied to the petitioner, enabling him to make an effective representation. The detaining authority has applied independent mind to fresh, proximate and sufficiently particularized material demonstrating imminent threat to the security of the State, and finally the impugned order of detention has been approved by the competent authority. Therefore, once the procedural requirement under the Act of 1978 have been scrupulously found to have been followed and the mandate of Article 22 (5) of Constitution of India is complied with in letter and spirit, this court cannot sit in appeal over the subjective satisfaction of the detaining authority or the final approval accorded by the competent authority.

17. While dealing with the scope of preventive detention in **Haradhan Saha vs. State of West Bengal & Ors AIR 1974 SC 2154**, Hon'ble the Supreme Court held thus:

“32. The power of preventive detention is qualitatively different from punitive detention. The power of preventive detention is a precautionary power exercised in reasonable anticipation. It may or may not relate to an offence. It is not a parallel proceeding. It does not overlap with prosecution even if it relies on certain facts for which prosecution may be launched or may have been launched. An order of preventive detention, may be made before or during prosecution. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even acquittal. The pendency of prosecution is no bar to an order of

preventive detention. An order of preventive detention is also not a bar to prosecution.”

18. What has been held by Hon’ble Supreme Court authoritatively that preventive detention is a precautionary power exercised in reasonable anticipation and need not to relate to any offence. Therefore, once it is found that immediately events which are entered in the beat book of Police Station, Khanyar, within whose jurisdiction petitioner resides, provide a live and proximate link to the activities which are prejudicial to the security of the State, the same provides a reasonable anticipation for resorting to preventive detention, and it is on the basis of this subjective satisfaction that the impugned order has been passed.

19. Having examined the matter in its entirety, Court is of the considered view that no illegality, procedural irregularity or violation of any constitutional or statutory safeguard has been committed by the detaining authority in passing the impugned detention order. Therefore, impugned detention order does not suffer from any infirmity warranting interference by the court.

20. In view of the aforesaid, the petition being devoid of merit, is accordingly, dismissed and the detention order is upheld.

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

(SHAHZAD AZEEM)
JUDGE

SRINAGAR:
23.07.2026
Altaf

Whether approved for reporting? Yes/No