

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

Reserved on: **29.01.2026**

Pronounced on: **31.03.2026**

HCP No. 84/2025

Umer Rashid Dar

.....Petitioners

Through: Mr. G.N.Shaheen, Advocate with
Mr. Asif Nabi, Advocate.

Vs.

Union Territory of J&K and others

.....Respondents

Through: Mr. Furkan Yaqoob Sofi, GA.

Coram : HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

1. Heard learned counsel for the petitioner as well as for the respondents. Perused the respective side pleadings and the documents accompanied therewith. Also perused the detention record produced from the end of the respondents.

2. The petitioner-Umer Rashid Dar is seeking this Court to exercise writ jurisdiction under Article 226 of the

Constitution of India to quash his preventive detention custody and restore him to his personal liberty otherwise lost because of his detention effected under the J&K Public Safety Act. 1978.

3. The institution of the writ petition came to take place on **06.05.2025** with the petitioner acting through his father- Ab Rashid Dar in maintaining the present writ petition.

4. The petitioner is 25 years of age against whom the respondent No.3- Senior Superintendent of Police (SSP), Pulwama prepared a dossier thereby documenting the alleged adverse activities of the petitioner found to be prejudicial to the security of the State warranting his preventive detention under the J&K Public Safety Act, 1978.

5. The respondent No.3-Senior Superintendent of Police (SSP), Pulwama, vide his letter **No. CS/PSA/2025/6032** dated **28.04.2025**, had forwarded the dossier to the respondent No.2- District Magistrate, Pulwama seeking him to act and exercise his jurisdiction.

6. Acting on said dossier, the respondent No.2- District Magistrate, Pulwama formulated the purported grounds of detention to draw a subjective satisfaction there-from that the alleged reported activities of the petitioner were fit enough to subject him to suffer preventive detention custody so as to prevent him from acting in a manner prejudicial to the security of the State and for that purpose invoked the J&K Public Safety Act, 1978 to pass detention order **No.13/DMP/PSA/25**

dated **30.04.2025** thereby ordering the detention and confinement of the petitioner in District Jail, Udhampur for a period to be specified by the Government.

7. In the grounds of detention, the petitioner came to be referred as 9th Pass school dropout who came in contact with the terrorists under whose influence he agreed to carry out subversive activities in the area. The petitioner is referred to have been sharing prior information with the active terrorists before the **CASOs** of the adjoining area of Drabgam with the help of B.B.M (Black Berry Messenger) Mobile application enabling them to escape.

8. The petitioner is alleged to have been arrested in year **2020** at Drabgam-Shadimarg Road being in alleged

possession of two Chinese grenades leading to registration of **FIR No.29/2020** under Sections 7/75 I.A.Act and Section 23 ULA(P) Act by the Police Station, Rajpora but getting bailed out on **15.10.2020**.

9. The alleged implication of the petitioner in the aforesaid criminal case is said to have brought him under surveillance of the Police wherefrom it came to be found out that the petitioner has been secretly maintaining contacts with active terrorists for rendering them services for their sustenance in the area by providing logistic support to the local and foreign terrorists just to facilitate their movement from one place to another through unconventional passages and conceal their arms at remote destinations. The petitioner is alleged to have been providing shelter,

food and information about the movement of the Security Forces in the area to the terrorists.

10. The alleged objectionable activities read and reckoned to be of serious nature are said to have brought the petitioner to preventive measures under Section 126/170 BNSS on **11.01.2025** by the Police Station, Rajpora but the petitioner is alleged to have been still working as 'OGW' carrying on with his alleged old state of activities thereby making him a case to suffer preventive detention.

11. The grounds of detention so texted is a clone of the dossier submitted by the respondent No.3- Senior Superintendent of Police (SSP), Pulwama.

12. Pursuant to the detention order so issued against the petitioner, he is said

to have been taken into custody on **01.05.2025** by SI Mohd Yousuf **No. 911597/EXK** of DPL, Pulwama and handed over to the Superintendent, District Jail, Udhampur.

13. The report of execution of the detention warrant purportedly certifying the fact of detention of the petitioner taking place on **01.05.2025** reads that the petitioner was handed over with notice of the order and the entire material /relevant documents, besides being explained to him in the language i.e. Urdu/Kashmiri. A proper receipt is said to have been taken from the petitioner, a perusal whereof would show that while the month and the year are mentioned therein but the date is finding omission in one receipt but another receipt bearing hand inserted date.

14. The petitioner is said to have received the following documents in compilation of 12 (twelve) leaves:

- i. Copy of warrant- 01 leaf;
- ii. Notice of detention- 01 leaf;
- iii. Grounds of detention- 02 leaves;
- iv. Dossier of detention- 02 leaves;
- v. Copy of FIR- 02 leaves;
- vi. Copy of Istegasa- 03 leaves;
- vii. Beat Report- 01 leaf.

15. The detention order **No.13/DMP/PSA/25** dated **30.04.2025** issued by the respondent No.2- District Magistrate, Pulwama came to be approved by the Government of UT of J&K through its Home Department by issuance of Government Order No. **Home/PB-V/878 of 2025** dated **08.05.2025** with forwarding of the case to the Advisory Board for its opinion taking place.

16. The Jammu & Kashmir Advisory Board came to forward its opinion report dated **20.05.2025** on File No. **Home/PB-V/208/2025** holding the preventive detention of the petitioner resting upon justifiable grounds and meeting all the procedural compliances. In its opinion report, the Advisory Board came to refer that the activities of the petitioner as spelled out from the contents of the FIR, **statements of prosecution witnesses** and the confidential report appended with the record demonstrated that the petitioner despite being implicated in the case under FIR No. **29/2020** had not mended his ways and was still inclined towards anti-national activities.

17. The Advisory Board makes a reference in its opinion report that there is no representation from the end of the

petitioner against his preventive detention and that constitutes no rebuttal from the end of the petitioner to the grounds of detention as otherwise the grounds of detention are well-founded.

18. The Advisory Board's opinion report dated **20.05.2025** paved way for issuance of Government Order No. **Home/PB-V/1025 of 2025** dated **23.05.2025** thereby confirming the original preventive detention order No. **13/DMP/PSA/25** dated **30.04.2025** of the respondent No.2- District Magistrate, Pulwama and directing the period of detention of the petitioner for six months at the first instance i.e. with effect from **01.05.2025** till **31.10.2025**.

19. In his writ petition, the petitioner has assailed the preventive detention on

the grounds as set out in Para 5(I) to (XVI).

20. The petitioner challenges his preventive detention being based upon vague and mere assertions and assumptions of the Detaining Authority with the grounds of detention bearing no nexus with the petitioner but all fabricated by the Police to justify submission of a case for preventive detention of the petitioner.

21. The petitioner also challenges that while it has been alleged in the dossier as well as in the grounds of detention that the petitioner was found hatching a conspiracy for snatching a weapon from the Security Force/Police Personnel with intent to formally join terrorism but the name of the Security Force/Police Personnel from whom the alleged weapon snatching attempt was

being conceived by the petitioner has not been disclosed. It is further stated in the grounds of detention that the date and place of the alleged intent of the petitioner to snatch a weapon from the Security Force/ Police Personnel is nowhere whispered.

22. The petitioner further refers to the fact that previously also he was subjected to the preventive detention by reference to the detention order **No.33/DMP/PSA/20** dated **31.10.2020** passed by the respondent No.2-District Magistrate, Pulwama which came to be questioned by him in a writ petition **WP(Crl) No.170/2020** which came to suffer quashment in terms of the judgment dated **16.11.2020** thereby restoring the petitioner to his personal liberty after almost one year of preventive detention

but only again to be brought back under preventive detention custody by virtue of present detention order again passed by the respondent No.2-District Magistrate, Pulwama without any change of situation obtaining whatsoever between first detention order and the second detention order both of which bear common reference to **FIR No.29/2020** which is reflective of the fact that the respondent No.3-Senior Superintendent of Police (SSP), Pulwama and respondent No.2-District Magistrate, Pulwama are actually acting on the stale pretext in branding the petitioner in an adverse manner so as to keep him suffer repetitive preventive detention.

23. The counter affidavit to writ petition came to be submitted on 23.07.2025 from the end of Dr.

Basharat Qayoom, the then incumbent District Magistrate, Pulwama, who incidentally is also author of the impugned detention order although detention order *per se* does not bear mention of his name as District Magistrate under whose signature passing of detention order has come to take place.

24. In the counter affidavit, it is being stated that the preventive detention imposed upon the petitioner is for justifiable grounds with due compliance to the procedural formalities and in consonance with the position of law settled by the Hon'ble Supreme Court of India in the case of **(i) Haradhan Saha vs. State of West Bengal (1975) 3 SCC 198; (ii) Secretary to Government, Public (Law and Order) & Anr. Vs. Nabila & Anr. (2015) 12 SCC 127; (iii)**

Debu Mahato Vs. State, 1974 AIR SC 816; (iv) Ashok Kumar Vs. Delhi Administration & Ors., AIR 1982 SC 1143.

25. The respondents in their counter affidavit have laid emphasis on the fact of previous detention of the petitioner as well as his implication in a criminal case borne out of **FIR No.29/2020.**

26. When this Court examines the basis of the grounds of detention wherefrom the respondent No.2-District Magistrate, Pulwama came to draw his purported subjective satisfaction obviously the period to be reckoned is post petitioner's release from first preventive detention custody pursuant to the judgment of this Court in **WP(Crl) No.170/2020** as otherwise relegating back to the scenario, would be seriously prejudicing the petitioner that the

alleged state of activities on the basis of which he was detained pursuant to the detention order No. **No.33/DMP/PSA/20** dated **31.10.2020** passed by the respondent No.2-District Magistrate, Pulwama, he has again come to be brought under preventive detention custody second time by virtue of the impugned detention order.

27. Therefore, when this Court examines the grounds of detention, there is found to be a very intriguing silence on part of the respondent No.3-Senior Superintendent of Police (SSP), Pulwama with respect to making mention of petitioner's earlier detention effected in terms of detention order No. **No.33/DMP/PSA/20** dated **31.10.2020**, whereas on the contrary reference to **FIR No.29/2020** stands

mentioned in bold letters meaning thereby the respondent No.3-Senior Superintendent of Police (SSP), Pulwama was well conscious of fact that if a recital as to fact of the previous detention of the petitioner would be made in the dossier, then the recommendation for subjecting the petitioner to preventive detention custody might not find favour from the end of the respondent No.2-District Magistrate, Pulwama.

28. Thus, the respondent No.3- Senior Superintendent of Police (SSP), Pulwama fed the respondent No.2-District Magistrate, Pulwama with half backed factual inputs with a malice in law if not on fact.

29. This singular omission on the part of the respondent No.3-Senior Superintendent of Police (SSP),

Pulwama resulted in infesting very exercise of jurisdiction under the J&K Public Safety Act, 1978 by the respondent No.2-District Magistrate, Pulwama with an illegality which is incurable and therefore, renders very preventive detention of the petitioner illegal and an abuse of law warranting to be quashed.

30. Accordingly, present writ petition is allowed. Preventive detention Order No. **No.13/DMP/PSA/25** dated **30.04.2025** passed by the respondent No.2-District Magistrate, Pulwama read with approval/confirmation/extension order(s) passed by the Home Department, Government of UT of J&K under the J&K Public Safety Act, 1978 are hereby quashed with immediate effect. The petitioner is ordered to be restored to his personal liberty by his

release from the concerned Jail for which the Superintendent concerned to carry out the compliance.

31. Disposed of, as such.

(RAHUL BHARTI)
JUDGE

Srinagar
31.03.2026
Muzammil Q

Whether the judgment is speaking : Yes / No

Whether the judgment is reportable : Yes / No