

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

Reserved on: **19.02.2026**

Pronounced on: **31.03.2026**

HCP No. 92/2025

Showkat Ahmad Dar

.....Petitioner

Through: Mr. Wajid Haseeb, Advocate.

Vs.

Union Territory of J&K and Ors.

.....Respondents

Through:

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

JUDGMENT

- 1.** Heard learned counsel for the petitioner as well as for the respondents.
- 2.** Perused the writ pleadings and the documents therewith from both ends. Also perused the detention record produced for inspection of this Court.
- 3.** The petitioner Showkat Ahmad Dar, a 29 years' aged young man acting through his wife Mst. Sabreena Jan age

27 years came forward with the present petition filed on **13.05.2025**, thereby seeking issuance of a writ of habeas corpus for restoration of his personal liberty with quashment of a preventive detention order passed against him by the respondent No.2- District Magistrate Srinagar, under Jammu and Kashmir Public Safety Act, 1978.

4. By virtue of order **No.DMS/PSA/06-2025** dated **26.04.2025**, the respondent No.2-District Magistrate, Srinagar, held the petitioner liable for suffering preventive detention in order to prevent him from acting in manner prejudicial to maintenance of Security of the State.

5. The respondent No.2- District Magistrate, Srinagar was approached by the respondent No.3- Senior Superintendent of Police (SSP), Srinagar, with a dossier submitted through vide letter **No.Lg1/Det/2025/12129-32** dated **09.04.2025**, wherein materially is said to have been submitted with respect to the petitioner thereby reporting the alleged objectionable state of activities on the part of the petitioner reckoned by District Police to be prejudicial to the maintenance of Security of the State.

6. The respondent No.3- Senior Superintendent of Police (SSP), Srinagar, in his dossier referred the petitioner

working as salesmen at a Dry Fruit Shop of one Riyaz Ahmad Rather at Nishat Srinagar, and thereafter working as courier boy with Ecom express at 90 feet road Soura Srinagar. The petitioner was impliedly linked with radical social media handle on Facebook glamorizing terrorism and luring young minds towards anti-national activities with suspicion led to an action on the part of Police Station JIC CIK, Humhama on **17.03.2025**, with apprehension of the suspect along with his device which revealed a Facebook account, "Shaddy Kashmir Dry Fruits" along with incriminating material on the basis whereof the petitioner was detained apprehending that he would indulge in unlawful activities by uploading further material having direct threats to Security of UT of Jammu and Kashmir. This development is said to have resulted in initiation of proceedings under section **126/170** of Bharatiya Nagarik Suraksha Sanhita BNSS, as is written in the dossier without full form of BNSS being mentioned therein as to what it stands for.

7. The petitioner's criminal bent of indulgence was referred to by his alleged involvement in FIR **No. 39/2019** registered by Police Station Harwan and FIR **No.**

126/2023 registered by the Police Station Nishat, Srinagar but by reference to both of which, the petitioner is said to have been granted bail.

8. In the dossier, the petitioner's state of personal liberty was reckoned to be risky for public peace and order but detention was sought to prevent him from acting in any manner prejudicial to the security of State.

9. By making a verbatim reproduction of the dossier the respondent No.2- District Magistrate, Srinagar rechristened the reproduction of dossier as grounds of detention for deriving purported subjective satisfaction therefrom that curtailment of the petitioner's personal liberty is imperative as the normal law has not been found sufficient to stop the petitioner from indulging in activities highly prejudicial to security of State so as to prevent the society from violence, strikes, economic adversity and social indiscipline.

10. Pursuant to the said detention order **No.DMS/PSA/6/25** dated **26.04.2025**, the petitioner was arrested and taken into custody by S.I Farooq Ahmad of Police Station Nishat, on **29.04.2025** and handed over the

person of the petitioner to the Superintendent of District Jail, Udhampur.

11. At the time of effecting the arrest and detention of the petitioner, he is said to have been delivered compilation of documents in the form of warrant of arrest, notice of detention, grounds of detention, copy of dossier, copy of FIRs/statements of witnesses and other relevant document relating to detention with total compilation being of 46 leaves.

12. The petitioner is said to have been read over in English the contents of grounds of detention and also explained in the language of the petitioner being Urdu/Kashmiri. The petitioner is said to have been apprised of his right to make a representation to the Government against the detention order.

13. The arrest and detention of the petitioner on **29.04.2025** was followed by passing of Government Order **No.Home/PB-V/711/2025** dated **29.04.2025**, thereby approving the detention order **No.DMS/PSA/06/2025** dated **26.04.2025**, and the case forwarded for the opinion of the Advisory Board, which came to tender its opinion on **19.05.2025**, holding the preventive detention of the

petitioner resting on sufficiency of material with sufficient cause to justify the detention of the petitioner.

14. By virtue of Government Order **No. Home/PB-V/992/2025** dated **22.05.2025**, the petitioners' detention was confirmed with first installment of detention period being prescribed for six months w.e.f **29.04.2025** to **28.10.2025** with place of detention being the District Jail, Udhampur.

15. It is during first six month's detention period that the petitioner had come forward with the institution of present writ petition on **13.05.2025** by challenging the detention on the grounds as set out para 3(I) to (XV).

16. The petitioner has pleaded that grounds of detention have no nexus with the petitioner and same have been fabricated by the Police to implicate the petitioner. The petitioner has come to the extent of saying that passing of detention order against him seems to be a case of mistaken identity because the petitioner is remotely related or relatable to and with any of alleged state of activities referred in the dossier as well as in the grounds of detention.

17. The petitioners submits that during his questioning in the Police Station CIK he had given explanation on the basis whereof he was let off only to be proceeded by reference to section 126 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023. The petitioner assails the grounds of detention as being vague and non-existent on which no prudent man could make a representation against such nature and type of allegations. The petitioner asserts that there is no specificity in the entire dossier as well as in the grounds of detention.

18. The petitioner submits that he has no knowledge of his involvement in FIR **No.126/2023** of the Police Station Nishat, but nevertheless the petitioners submits that he has been granted bail by the court of law and therefore said FIR could not have been cited as basis for detention order.

19. The petitioner submits that his right to make an effective representation has been seriously prejudiced by the non supply of full material on the basis whereof the respondent No.2- District Magistrate Srinagar, had exercised his application of mind.

20. The petitioner has in very bold tone asserted that he was not at all apprised about his right to make a representation to the detention order making authority and also not informed as to which Government he was to make the representation.

21. The petitioner submits that he is not an English language knowing person and, therefore, the entire compilation of detention record being in English left him handicapped to make a representation so whatever the material was available to him on that basis he has made a representation which has remained unconsidered and unresponded till date of filing of the writ petition.

22. Counter affidavit to the writ petition came to be filed on **17.09.2025** by the respondent No.2- District Magistrate Srinagar, who prima facie seems to be not the author of the detention order because same is by his predecessor-in-office.

23. In the counter affidavit, the respondent No.2- District Magistrate Srinagar, has come forward denying the assertions and averments made in the writ petition from the end of the petitioner. It is submitted in the

counter affidavit that petitioner was a chronic stone pelter and trouble monger besides being a radical social media user in district Srinagar related to a radical social media handle on Facebook “Shady Kashmir” Dry Fruits which was uploading and sharing extremist content to glamorize terrorism and lure young minds towards anti national activities. It is in said state of alleged activities that the petitioner is said to have been apprehended on **17.03.2025** by the Police Station CIK JIC Humhama and his mobile device was recovered from him along with incriminating material on the basis whereof the petitioner was subjected to proceedings under section **126/170** of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023.

24. The counter affidavit further refers to involvement of the petitioner in case FIR **No.39/2019** of the Police Station Harwan Srinagar, and FIR **No.126/2023** under section 188 IPC and section 9 of COBA Act of the Police Station Nishat Srinagar. In the counter affidavit, the respondent No.2- District Magistrate Srinagar, has not explained the full form and name of COBA Act. The counter affidavit further submits that all procedure compliances were carried out.

25. Now, coming to examination of legality of the detention of the petitioner both by reference to the procedural side as well as to the purpose side, this Court at the very first instance negates the plea of the petitioner that by not disclosing to him the fact that he had a right of making representation against his detention to the detaining authority he has suffered a prejudice.

26. In this regard, the petitioner himself has annexed representation dated **08.05.2025** made on his behalf by his wife against preventive detention to none else than to the respondent No.2- District Magistrate Srinagar, received on **09.05.2025**.

27. Even if the petitioner was not apprised of his entitlement to make a representation against his detention to detention order making authority still the petitioner having made said representation lost no right of representation.

28. Now, coming to the references with respect to the alleged activities in involvement of the petitioner under FIR **No.39/2019** and FIR **No.126/2023**, the petitioner came to be bailed out for the simple reason that he was booked for the offences which were bail-able ones. The

petitioner is then being referred to have been subjected to proceeding under section **126/170** of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 on two occasions i.e. on **17.03.2025** and **27.03.2025**.

29. It is this reference which is so contradictory and self defeating that it punctures the very dossier served against the petitioner on the basis whereof the respondent No.2-District Magistrate Srinagar, actually acted upon. If it is to be assumed that the proceeding under section **126/170** of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 initiated on **17.03.2025**, led to its logical end with final order passed by an Executive Magistrate concerned and competent in that regard, then why without forfeiture of said bond, personal as well as surety, the proceedings on second occasion on **27.03.2025** came to be taken up by the same very Police Station JIC CIK Humahma. It thus, clearly that means that on both occasions proceedings were initiated under section **126/170** of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 but both were not taken to logical conclusion so as to constitute a valid basis and point of reference that the petitioner is least bothered

to honour ordinary mandate of law of keeping peace in the context for which he was proceeded against.

30. Thus, when the proceedings under section **126/170** of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 were not able to earn a final order against the petitioner for whatsoever reason that may be, then a switch overly the District Police and District Magistracy to a preventive detention mode of curtailing personal liberty of petitioner is quite a quantum leap of judgment creating an apparent mismatch which can be symbolized with killing of ant, with sledge-hammer.

31. Thus, the District Police Srinagar was not to be rewarded for its failure to take the very essential nature of 126 and 170 Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 proceedings to the logical end before the executive Magistrate concerned to prevent and check the petitioner from his alleged state of activities.

32. This Court is purposely avoiding reference to the alleged states of proceedings undertaken before and by the Executive Magistrate 1st Class **Humhama** by reference to section 126 and 170 of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 as on both occasions the

proceedings are nothing but in sheer embarrassment to the letter and spirit of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, and the provisions in reference.

33. The most serious flaw that this Court is finding with respect to default of procedural compliance attending the detention of the petitioner is that while in his communication **No.DMS/PSA/Jud/30-35/2025** dated **26.04.2025** by the respondent No.2- District Magistrate Srinagar in addressing to the petitioner and meaning to apprise him therein that he may make a representation against order of detention to the under-signed that is the respondent No.2- District Magistrate Srinagar and to the Government as he may desire, but when it came to the matter of reading the grounds of detention order notice, the Executive Officer S.I Faruq Ahmad **No.896/AP**, 9th, PID **No.ARP-972762** of the Police Station Nishat was apprising the petitioner that he could make a representation to the Government against detention order and that is what the petitioner in his receipt of grounds of detention has also acknowledged that he has been informed of his right to make representation to the Government.

34. Thus, the execution report of PSA warrant and receipt of grounds of detention document of the same date **29.04.2025** were there to be read as it when the Government had send the detention file of the petitioner to the Advisory Board on **29.04.2025** for its consideration and opinion.

35. At this stage this Court is lost to figure out as to whether the document of execution of the detention warrant dated **29.04.2025** and receipt of grounds of detention executed by the petitioner were ever forwarded by the Advisory Board or not.

36. This Court has reason that the same were not put forward to the Advisory Board otherwise Advisory Board would not have taken it for granted and making a mention in its opinion report that the petitioner was apprised his right of making representation against his detention to the detaining authority as also to the Government. Thus, even the Advisory Board was not fully kept in a loop by the Home Department of Jammu and Kashmir and thus covered up a serious defect in the execution of the detention warrant upon the petitioner.

37. In the light of the aforesaid, this Court cannot lend its constitutional nod to continuing detention of the petitioner which is afflicted with serious procedural deficiency and defect at the end of the Government for the reasons best known to it.

38. Therefore, detention order **No.DMS/PSA/06/2025** dated **26.04.2025** read with approval/confirmation/extension order passed at the end of government of UT of Jammu and Kashmir through its Home Department are hereby quashed. The petitioner is directed to be restored his personal liberty by his release from the concerned jail wherever he is being kept confined and to this effect Superintendent concerned to abide by the writ hereby issued.

39. Disposed of.

(RAHUL BHARTI)
JUDGE

Srinagar
31.03.2026
Opinder

Whether the judgment is speaking : Yes / No

Whether the judgment is reportable : Yes / No