

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

Reserved on: 12.05.2026

Pronounced on: 05.06.2026

Uploaded on: 05.06.2026

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

**HCP No. 94/2025**

Adil Nabi Shah th. his brother

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

Through: - Mr. Wajid Haseeb, Adv.

vs.

U. T. of J&K and others

**...RESPONDENT(S)**

Through: - Mr. Furqan Yaqoob Sofi, GA.

**CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**JUDGMENT**

**1)** Through the medium of present petition, the petitioner has challenged detention order bearing No. 21/DMP/PSA/25 dated 01.05.2025, issued by District Magistrate, Pulwama, whereby the detenue, namely, **Adil Nabi Shah**, has been placed under preventive detention so as to prevent him from acting in a manner prejudicial to the security of the State/UT of J&K.

**2)** In the petition, the petitioner has challenged the impugned order of detention on the grounds that the allegations mentioned in the grounds of detention have no nexus with the detenue and the same have been fabricated by the Police in order to justify its illegal action of detaining the petitioner. It has been further contended that the petitioner is not even remotely connected with the allegations mentioned in the grounds of detention and that the same are imaginary without any basis. It has also been submitted that the alleged

activities attributed to the petitioner had taken place in the year 2021, whereafter, in the year 2022, he was taken into preventive detention in terms of detention order dated 16.04.2022. It has been further submitted that the said order was challenged by the petitioner vide writ petition bearing WP(Crl) No. 270/2022 but during the pendency of the said writ petition, the maximum period of detention expired and the detenue was released from custody in the year 2024. It has been submitted that no fresh activity has been attributed to the petitioner in the grounds of detention after his release from preventive detention in the year 2024. It has been contended that whole of the material forming basis of grounds of detention has not been furnished to the petitioner, as a result of which, he could not make an effective representation before the respondents. It has also been contended that there has been non application of mind on the part of the Detaining Authority inasmuch as in the grounds of detention, the fact that the petitioner was detained under J&K Public Safety Act in the year 2022 does not find any mention. It has further been contended that the representation made by the petitioner before the Home Department has not been considered nor has its result been conveyed to the petitioner.

**3)** The respondents have contested the writ petition and filed the counter affidavit. Respondent No. 2 (Detaining Authority), in its counter affidavit, has contended that all statutory requirements and constitutional guarantees have been fulfilled and complied with by the Detaining Authority in the present case. The respondents have produced the detention record to lend support to the stand taken in the counter affidavit. It has been submitted that

the impugned order of detention has been passed after deriving subjective satisfaction in the matter. It has also been submitted that the grounds of detention, order of detention as well as the entire material relied upon by the Detaining Authority have been furnished to the detenu well within the statutory period provided under Section 13 of the J&K Public Safety Act. It has also been submitted that the petitioner was well informed about his right to make representation against his preventive detention to the Detaining Authority or to the Government. According to the respondents, there is no vagueness or staleness in the grounds of detention and that the same are precise, proximate and relevant. In order to lend support to their contentions, the respondents have produced the detention record.

4) I have heard learned counsel for the parties and perused record of the case including the detention record produced by the respondents.

5) Although the petitioner has raised a number of grounds in the writ petition against his preventive detention, yet during the course of the arguments, the learned counsel has laid much emphasis on the following grounds:

- (i) that there has been non application of mind on the part of the Detaining Authority while passing the impugned order of detention;
- (ii) that the allegations regarding fresh activities of the petitioner as contained in the grounds of detention are vague, lacking in material particulars and this has prevented the petitioner from making an

effective and suitable representation against the impugned order of detention.

6) With regard to the first contention, it has been submitted by the learned counsel for the petitioner that after release of the petitioner on bail in case FIR No. 130/2021 of Police Station, Awantipora on 27.01.2022, he was detained vide detention order No. 31/DMB/PSA/22 dated 13.04.2022 issued by the District Magistrate, Pulwama, respondent No. 2 herein and after the expiry of two years, the petitioner was released from custody. This fact does not find mention in the grounds of detention. The contention of learned counsel for the petitioner in this regard appears to be well founded because in the grounds of detention, there is no mention of previous preventive detention of the petitioner under the J&K Public Safety Act in the year 2022 and his release upon expiry of period of detention. It has been contended by the petitioner that the grounds of detention formulated in connection with detention order dated 13.04.2022 are similar to the grounds of detention which form the basis of impugned order of detention on 01.05.2025.

7) The fact that the Detaining Authority has not made a mention of an important event relating to previous detention of the petitioner after his release on bail on 27.01.2022 clearly exhibits non application of mind on the part of the Detaining Authority. Incidentally, it is the District Magistrate, Pulwama, respondent No. 2 herein, who had passed the earlier detention order as well. The non mentioning of this important event in the grounds of detention exhibits non application of mind on the part of the Detaining

Authority, thereby making his subjective satisfaction vulnerable to the interference by this Court.

**8)** So far as the second contention raised by the petitioner is concerned, the same also appears to be well founded. If we have a look at the grounds of detention, the activities attributed to the petitioner post his release on bail on 27.01.2022 are completely vague, lacking in material particulars. The relevant extracts of the grounds of detention are reproduced as under:

“You have been an OGW of Hizbul Mujahidin (H.M.)/Jaish-e-Mohammad. You have been assisting the shooters of the said outfit who have unleashed a spate of terror by killing persons who are soft targets like tourists, street vendors, labourers coming from outside Jammu and Kashmir working in orchards, small shops and commercial establishments, policemen who are off duty or un-armed. You have also been providing logistic support like food, shelter, clothes, information and facilitation of movement to the terrorists of banned terrorist organization of H. M. and Jaish-e-Mohammad(JeM) thereby making it easy to carry out subversive activities including carrying out attacks like one recently in Pahalgam in which as many as 26 innocent persons were killed brutally and score were injured for none of their fault.”

**9)** From a perusal of aforesaid quoted grounds of detention, it is clear that the Detaining Authority has not mentioned the particulars of the places where the petitioner is alleged to have assisted the terrorists nor the identity of the terrorists to whom the petitioner is alleged to have provided logistics is mentioned in the grounds of detention. Even the particulars of the period during which the petitioner is alleged to have come in contact with these terrorists to provide logistic support to them are missing in the grounds of detention. Thus, the grounds being vague, lacking in material particulars, it was not possible for the petitioner to make an effective representation against his detention.

**10)** Article 22(5) of the Constitution mandates that each ground of detention must be individually specified and not vague, ensuring transparency and accountability in the detention process. It is impossible for the detainee to understand the reasons of his detention, if the grounds are vague, indefinite or general in nature and this prevents a detainee from effectively challenging his preventive detention.

**11)** A Division Bench of this Court in the recent case titled “**Imran Rashid Rather vs. UT of J&K**” 2024 LiveLaw (JKL) 351 has, while deliberating upon the effect of vagueness of the grounds of detention on the subjective satisfaction of the detaining authority, observed as under:-

“Therefore, this Court holds that vague and non-specific grounds of detention firstly, violates the fundamental right to life and personal liberty of the detainee under article 21 of the constitution as it summarily curtails the liberty of the citizen based on the subjective satisfaction of the executive which is an exceptional power as against the general law relating to arrest and detention. Secondly, it deprives the detainee of giving a specific rebuttal to the grounds of detention which may satisfy the detaining authority or the Government that his detention is unlawful and compels him to answer the grounds of detention as "it is incorrect" or "it is false" etc. Thirdly, vague and generalised grounds in the order of detention, smacks of arbitrariness on the part of the detaining authority rendering the subjective satisfaction arrived at as violative of article 14 of the constitution and fourthly, vague and non-specific grounds raise the impression that the same has been done deliberately in order to deprive the detenu of giving a precise rebuttal. Malafide in fact may be difficult to establish as they must be pleaded with specific facts, but the lack of bonafides 1State of Bihar Vs. P.P. Sharma,1992 Supp(1) SCC 222, paragraph 49 - State of Punjab vs. Gurdial Singh, (1980) 2 SCC 471, paragraph 9 -Pooja Batra vs. Union of India and others, (2009) 5 SCC 296, paragraphs 18,40 and 41 may be presumed where the executive act results in the deprivation of personal liberty from a detention order based on vague grounds. In such cases, the lack of bonafides is to be presumed due to a cavalier or casual exercise of the authority to detain the citizen without any specific ill will or personal animosity. The lack of bonafides is on account of failure to take due care and act without introspection, blindly on the report of the SP without insisting on supporting material which justifies the deprivation of liberty.”

**12)** 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.

**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.

Srinagar,  
05.06.2026  
"Rakesh PS"

Whether the **judgment** is reportable: **Yes/No**

(Sanjay Dhar)  
Judge

