

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

HCP No. 95/2025

Pronounced on: 01.07.2026

Imtiyaz Ahmad Bhat

...Petitioner(s)

Through: Mr. Wajid Mohammad Haseeb, Advocate

Vs.

Union Territory of J&K and Ors.

...Respondent(s)

Through: Mr. Bikramdeep Singh, Dy. AG

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

- 1.** Heard learned counsel for the petitioner as well as learned counsel for the respondents.
- 2.** Perused the writ pleadings and documents annexed therewith. Also examined the detention record produced from the end of the respondents relating to the detention of the petitioner.
- 3.** Institution of this writ petition came to take place on **14.05.2025** by the petitioner-Imtiyaz Ahmad Bhat, acting through his father-Fayaz Ahmad Bhat,

thereby seeking issuance of writ of habeas corpus from this Court in terms of jurisdiction under article 226 of the Constitution of India for release of petitioner from his preventive detention custody being suffered by him under J&K Public Safety Act, 1978.

4. The facts of the case go like this that the Senior Superintendent of Police (SSP), Budgam profiled the petitioner to be indulgent in activities prejudicial to the security of State and, therefore, prepared a dossier of his alleged activities which he submitted by his letter No. **PSA Cell/Dossier/2025/441-44** dated **07.04.2025** to the respondent No.2-District Magistrate Budgam thereby soliciting a preventive detention order against the petitioner.

5. Acting on the basis of said dossier, the respondent No.2-District Magistrate, Budgam, at his end, came to formulate grounds of detention wherein the petitioner came to be referred as repeated violator of law having no respect for the law of land suggesting his relentless pursuit of leading terrorist in the area. Criminal antecedents of the petitioner came to be

highlighted by his involvement in **FIR No. 02 of 2019** of the Police Station Charar-i-Sharief involving commission of offences under sections 7/27 of the Arms Act, 1959, section 307 RPC and sections 18/19/20/38 of the Unlawful Activities (Prevention) Act, 1967.

6. In addition, the petitioner is also said to have been bound down several times, on **05.08.2024**, **30.08.2024**, **12.01.2025**, **14.02.2025** and **18.03.2025** under relevant provisions of law without disclosing said relevant provisions of law but still the petitioner is reported in the grounds of detention not to have mended his indulgences and continuing with his illegal activities to support terrorist activities in the area.

7. The petitioner is even said to have managed to establish contact with the terrorists speaking volumes about his deep and clandestine links as an OGW of a terrorist organization working as an active aide of terrorist of LET outfit in the area.

8. The petitioner along with unnamed associates is alleged to have facilitated ferrying of terrorist group to escape from a cordon off and search operation at Haji Bagh Koker-khal, Charar-i-Sharief. The petitioner is said to have dug a fabricated hideout for terrorists.

9. On the basis of said grounds of detention, the respondent No.2-District Magistrate Budgam came to have a purported subjective satisfaction that the petitioner warrants to be confined in preventive detention custody, and, thus, Order No. **DMB/PSA/04 of 2025** dated **26.04.2025** came to be passed ordering preventive detention of the petitioner under section 8 of the J&K Public Safety Act, 1978 and his confinement to be in the District Jail Kathua for a period to be specified by the Government.

10. The issuance of the aforesaid detention order by the respondent No.2-District Magistrate Budgam led to the arrest and detention of the petitioner on **30.04.2025** when ASI Mohd Sidiq of Police Station Khansahib took the petitioner into his custody and

delivered his person to the Assistant Superintendent, District Jail Kathua.

11. The petitioner is said to have been delivered a compilation of 15 leaves inclusive of order of detention, grounds of detention and other documents which are said to have been read over to the petitioner in the language understood by him and in acknowledgement thereof, a receipt also fetched from him.

12. As per the Execution Report, the petitioner was also informed of his right to make a representation to the Government against the order of detention and said fact is confirmed from the Receipt fetched from the petitioner with respect to delivery of compilation of 15 leaves by the detention warrant executing officer ASI Mohd Sidiq of Police Station Khansahib.

13. The Superintendent District Jail, Kathua, by virtue of his communication No.**DJK/DS/2970-75** dated **01.05.2025** addressed to the Financial Commissioner (Additional Chief Secretary) Government Home Department J&K apprised about the execution of the detention order qua the petitioner

and also about the fact that the petitioner, as a detenu, has been informed about his right to make a representation to the Government and District Magistrate Budgam against his detention, meaning thereby, the Superintendent District Jail Kathua is in contradiction to the Execution Report of ASI Mohd Sidiq of Police Station Khansahib as per whom the petitioner was only apprised of right to make representation to the Government.

14. On behalf of the petitioner, his father came to pen down a representation dated **06.05.2025** submitted to the respondent No.2 District Magistrate, Budgam thereby seeking revocation of detention of the petitioner on the grounds asserted in the representation.

15. Said representation in writing was admittedly received in the office of the respondent No.2-District Magistrate Budgam on 07.05.2025.

16. The preventive detention Order No. **DMB/PSA/04 of 2025** dated **26.04.2025** came to be lend an approval in terms of Government Order No.

Home/PB-V/775 of 2025 dated 05.05.2025

accompanied with forwarding of the case for the opinion of the Advisory Board which came to be tendered by an Opinion Report dated **19.05.2025** wherein the Advisory Board came up with the opinion that the petitioner's detention is based on justifiable grounds. The Advisory Board, in its report, comes up with a recital that the petitioner, as a detenu, was informed of his right to make a representation to the Government as well as to the detention order making authority which recital is again contrary to the Execution Report submitted by ASI Mohd Sidiq of Police Station Khansahib, who actually dealt with the petitioner in the context of taking him to custody, handing over compilation of 15 leaves to the petitioner, explaining him about the contents of order of detention, grounds of detention and notice of detention but not apprising him about right to make a representation against his preventive detention to the detention order making authority, i.e the respondent No.2-District Magistrate Budgam.

17. The Advisory Board's Opinion Report dated **19.05.2025** facilitated confirmation of the petitioner's preventive detention by issuance of Government Order No. **Home/PB-V/999 of 2025** dated **22.05.2025** with period of detention at first instance being from **30.04.2025** to **29.10.2025** and place of confinement continuing to be the District Jail Kahtua.

18. The petitioner's detention period is said to have been extended from time to time to last for full two years w.e.f. 30.04.2025.

19. By virtue of a Government Order No. **Home/PB-V/1925 of 2025** dated **24.10.2025**, the period of detention fastened upon the petitioner in terms of Government Order No. **Home/PB-V/999 of 2025** dated **22.05.2025**, came to be extended for a further period of six months w.e.f **30.10.2025** till **29.04.2026**.

20. The petitioner, in his writ petition, has assailed his detention order on the grounds as set out in para 3 (i) to (xiv).

21. In the grounds of detention, the petitioner assails his detention as being illegal pleading that the grounds of detention have no nexus with the cause for subjecting the petitioner to suffer preventive detention custody. The petitioner refers that the detention is a case of mistaken identity in the sense that he has never been involved in alleged activity as referred in the grounds of detention as well in the dossier. The petitioner assails the grounds of detention to be vague, non-existent on the basis whereof no prudence can generate a subjective satisfaction for a District Magistrate to order a preventive detention of the petitioner. The reference to the petitioner's involvement in criminal case of 2019 is being assailed as too distant to afford any basis for a preventive detention order being passed in the year 2025 and, more particularly, when petitioner is on bail by reference to the said criminal case on the terms and conditions which the petitioner has always acted in compliance. The respondent No.2-District Magistrate Budgam is alleged to have acted as a borrower of the dossier to

repeat the same as it is in the name of his grounds of detention, and pass detention order against the petitioner in a mechanical manner without involving any independent application of mind on the part of respondent No.2-District Magistrate Budgam.

22. The petitioner in ground (xii) of para 3 has categorically come up with an averment that his representation submitted on **07.05.2025** before respondent No.2-District Magistrate Budgam has gone waste without any consideration being accorded to it.

23. In response to the writ petition, the respondents in general and the respondent No.2-District Magistrate Budgam in particular, in the counter affidavit submitted on **30.09.2025** come forward defending the preventive detention of the petitioner. The respondents are pleading that all the procedural formalities and safeguards were followed to the fullest and, thus, the petitioner cannot be heard to have any grievance against his preventive detention custody on the basis of subjective satisfaction drawn

by the respondent No.2-District Magistrate Budgam from the material on record.

24. The fate of this writ petition and also of the petitioner shall not detain this Court much longer as a singular flaw attending the preventive detention custody of the petitioner is staring from the detention record to quash the preventive detention of the petitioner and that flaw is why the petitioner's representation received by respondent No.2-District Magistrate Budgam on **07.05.2025**, was not forwarded to the Advisory Board for its consideration for the reasons best known to the respondent No.2-District Magistrate Budgam or for that matter to the respondent No.1- Home Department Government of Jammu and Kashmir and this fact is earning confirmation from the recital in the Opinion Report dated 19.05.2025 of the Advisory Board in para 4 stating that **no representation seems to have been made by the petitioner as no such representation is lying on the material placed before us.**

25. It appears that the respondent No.2-District Magistrate Budgam, despite having received representation from the end of the petitioner submitted by his father on **07.05.2025**, acted at his own leisure and forwarded the same to the Home Department Government of Jammu and Kashmir as it is only by virtue of a communication No.**DMB/PSA/2025/62-64** dated **15.05.2025** when it occurred to the respondent No.2-District Magistrate Budgam that he needed to forward the representation of the petitioner for the consideration of the Government, by which time, the Advisory Board was yet to come up with its Opinion Report dated **19.05.2025**. Thus, even the Home Department Government of Jammu and Kashmir is found acting with leisure in not forwarding the received representation of the petitioner so forwarded by the respondent No.2-District Magistrate Budgam for the immediate notice of the Advisory Board.

26. In the light of aforesaid flaw attending the preventive detention of the petitioner, this Court has

no iota of doubt as to the fact that the petitioner's detention cannot remain any further salvageable.

27. Accordingly, detention order No.**DMB/PSA/04 of 2025** dated **26.04.2025** issued by respondent No.2-District Magistrate Budgam read with approval/confirmation/extension order/s passed by the respondent No.1 are hereby quashed.

28. The petitioner is directed to be released from his preventive detention custody from the concerned Jail wherever the petitioner is being confined to which effect Superintendent concerned Jail shall immediately release the petitioner.

29. Detention record perused being in photostat form needs not to be returned and is to be retained on the file for record.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

01.07.2026

"Manzoor"

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