

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

Reserved on: 29.01.2026

Pronounced on: 04.03.2026

HCP No. 101/2025

Musaib Ahmad Khan

.....Petitioners

Through: Mr. S.T.Hussain, Sr. Advocate with
Ms. Nida Nazir, Advocate.

Vs.

Union Territory of J&K and others

.....Respondents

Through: Ms. Maha Majeed, learned Assisting
counsel.

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

JUDGMENT
04.03.2026

1. Heard learned counsel for both sides.
2. The petitioner-Musaib Ahmad Khan came forward with the institution of present writ petition filed through his mother- Mubeena Begum thereby seeking indulgence of this Court to exercise writ jurisdiction under Article 226 of the Constitution of India for

quashing the preventive detention imposed upon the petitioner under the J&K Public Safety Act, 1978 by dint of an order passed by the respondent No.2- District Magistrate, Srinagar.

3. The preventive detention of the petitioner came to be ordered by the respondent No.2- District Magistrate, Srinagar, by virtue of an order **No. DMS/PSA/13/2025** dated **29.04.2025** in terms whereof the petitioner came to be ordered to be detained in order to prevent him from acting in any manner prejudicial to the maintenance of the security of the State. The respondent No.2- District Magistrate Srinagar exercised jurisdiction under section-8 of the J&K Public Safety Act, 1978 to pass the preventive detention order against the petitioner.
4. The purported cause of action for the course of action at the end of the

respondent No.2- District Magistrate, Srinagar to order preventive detention of the petitioner came into being when the Senior Superintendent of Police (SSP), Srinagar, by virtue of his letter No. **LGL/Det/2025/14046-49** dated **28.04.2025** had submitted a dossier with respect to the petitioner thereby projecting his alleged state of activities to be prejudicial to the security of the State warranting his preventive detention.

5. Taking cognizance of said dossier, the respondent No.2- District Magistrate, Srinagar formulated the grounds of detention mentioning therein that as per the Senior Superintendent of Police (SSP), Srinagar's reports, the petitioner is deeply influenced by radical ideology and being in contact with active terrorists and OGWs of TRF outfit for the purpose of providing logistic support in the course of which the

petitioner is said to have rapidly motivated and worked for the TRF banned outfit sharing all the sensitive information regarding movement of Police and Security Forces in the area. The petitioner is alleged to have become a hard core fundamentalist and sympathizer of the terrorists.

6. The antecedents of the petitioner bearing negative overtones came to be drawn by reference to criminal cases attending the petitioner which being related to **FIR No.89/2016 under sections 147, 148, 152, 307, and 336 RPC** of Police Station, Batamaloo; **FIR No.103/2016 under sections 147, 148, 336, and 332** of Police Station Batamaloo; and **FIR No. 53/2022 under sections 13, 16, 18, IPC 121 and 121 A.** of Police Station, Sadder.
7. The precipitating aspect against the petitioner came to be **Beat reports** dated **06.04.2025** and **07.04.2025**.

- 8.** On the basis of the grounds of detention so formulated, the respondent No.2- District Magistrate Srinagar came to pass the Detention Order No. **DMS/PSA/13/2025** dated **29.04.2025** directing arrest and detention of the petitioner in District Jail, Poonch.
- 9.** Pursuant to the detention order so passed, the petitioner came to be taken into custody on **03.05.2025** from which date onwards the petitioner is serving his preventive detention custody which is meant to last for two years on account of approval/confirmation/extension order/s passed at the end of the Home Department, Government of UT of J&K.
- 10.** The petitioner came forward with the challenge to his preventive detention within eleven days of his detention getting effected. The arrest of the petitioner had taken place on **03.05.2025** and the

institution of the writ petition came to take place on **14.05.2025**.

11. The petitioner has posed challenge to his preventive detention on the basis of the grounds as set out in paragraph-5 of the writ petition.

12. When this Court peruses the grounds of detention which are providing support to the preventive detention order impugned in the writ petition, this Court comes across with a live evidence of sheer mechanical as well as non-application of mind at the end of the respondent No.2- District Magistrate, Srinagar by mere reference to **FIR No.53/2022** citing that the same is under **sections 13, 16, 18, IPC 121 and 121 A.** of Police Station, Sadder.

13. Section-13 IPC is referable to definition of **‘Queen’**; **Section-16 IPC** is the definition of **‘Government of India’**; **Section-18 IPC** is the definition of **‘India’**.

14. The grounds of detention by reference to mention of **FIR No. 53/2022** does not mention what are **section 121** and **section 121 A** and of which statute rather read as it or meant to be of Police Station, Sadder.

15. If the respondent No.2- District Magistrate, Srinagar is found to be incorrect and misplaced in his reference to the mention of offences by reference to **FIR No.53/2022**, then the comprehension and application of mind on the part of the respondent No.2-District Magistrate, Srinagar in formulating the grounds of detention to support the impugned order of detention is seriously suspect which thoroughly vitiates the preventive detention order and its effect vis-à-vis the petitioner's fundamental right to personal liberty.

16. The very fact that even in the counter affidavit filed by the respondent No.2-

District Magistrate, Srinagar, no course correction has been done by reference to **FIR No. 53/2022** is confirmation of the fact that even in the matter of filing of counter affidavit before a Constitutional Court to defend the preventive detention of a detenu is not a matter of priority and purity of interest on the part of the respondent No.2- District Magistrate, Srinagar.

17. In the light of the aforesaid facts and circumstances by singular act of omission and commission on the part of respondent No.2- District Magistrate, Srinagar, the impugned preventive detention order of the petitioner is found to be seriously flawed and vitiated with illegality warranting it to be quashed and is accordingly quashed read with approval/confirmation/extension order/s related to

the preventive detention custody of the petitioner.

18. The petitioner is, thus, directed to be released from his preventive detention custody from the concerned Jail for which purpose the Superintendent of concerned Jail to restore the petitioner to his personal liberty if he is not meant to be kept confined by reference to any other criminal case pending and to an order with respect to continuing custody of the petitioner being operative by reference to a criminal court of law seized of case against the petitioner.

19. Disposed of as indicated above.

(RAHUL BHARTI)
JUDGE

Srinagar
04.03.2026

Muzammil Q

Whether the judgment is speaking : Yes
Whether the judgment is reportable : Yes