

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

HCP No. 106/2025

Pronounced on: 02.07.2026

Ajaz Ahmad Wani

...Petitioner(s)

Through: Mr. Owais Ashraf Shah, 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

सत्यमेव जयते

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 petitioner's detention.
3. The petitioner-Ajaz Ahmad Wani, is suffering prevention detention custody on account of an Office

Order No. DMB/PSA/14 of 2025 dated **30.04.2025** passed by respondent No.2-District Magistrate, Budgam in exercise of authority under section 8 of the J&K Public Safety Act, 1978, on the basis whereof the petitioner was directed to be detained and kept in confinement so as to prevent him from acting in any manner prejudicial to the security of State.

4. The aforesaid detention order lead to the arrest of the petitioner taking place on **02.05.2025** and kept confined in the Central Jail Kot Bhalwal, Jammu, from which place of custody the petitioner, acting through his wife-Dilshada Bano, came forward with institution of present writ of habeas corpus on **16.05.2025** thereby seeking quashment of preventive detention so slapped upon him.

5. The cause which lead to visitation of preventive detention order upon the petitioner is sourced to the Senior Superintendent of Police, (SSP), Budgam preparing a dossier with respect to petitioner's alleged state of activities and submitting it to the respondent No.2-District Magistrate, Budgam by way of letter No.

PSA Cell/dossier/2025/572-75 dated **28.04.2025** thereby soliciting exercise of jurisdiction by the respondent No.2-District Magistrate, Budgam to order the preventive detention of the petitioner.

6. The dossier so submitted by the Senior Superintendent of Police, (SSP), Budgam comprised of two components, one related to past activities of the petitioner and second present state of activities of the petitioner on the basis whereof the petitioner was reckoned to be acting prejudicial to maintenance of security of the State.

7. Past activities' reference is related to the petitioner's implication in FIR No. **120/2020** of the Police Station, Chadoora for alleged commission of offences under sections 18, 19, 20 and 23 of Unlawful Activities (Prevention) Act 1967. The petitioner's next involvement cited is in criminal case related to FIR No. **133/2018** under section 3 of the Prevention of Damage to Public Property Act, 1984 and section 148,149,307,336 and 427 RPC of Police Station Chadoora. Similarly, the petitioner's involvement in

criminal case by reference to FIR No. **135/2018** under sections 307,148,149 and 336 RPC and 7/27 of Arms Act, 1959 also of Police Station Chadoora came to be in the dossier.

8. Insofar as present adverse state of activities as reported in the dossier is concerned, the petitioner is said to have been demonstrating a consistent patron of engaging in activities jeopardizing public order and security in the area and despite suffering repeated arrest under preventive legal provisions being booked before the competent Magistrate but still failing to desist from subversive actions and being booked for proceedings under section 107 read with 151 of the Code of Criminal Procedure, 1973 on two occasions in 2024 and under section 126 read with section 170 Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 four occasions in the year 2024 and on one occasion in January 2025 came to be present reference.

9. By cumulative effect of aforesaid profiling of the petitioner, the Senior Superintendent of Police, (SSP), Budgam came to refer petitioner being actively

engaged in covert subversive activities, posing grave risk to national security with intelligence reports indicating his involvement in clandestine communications with individuals linked to terrorist sympathizers and the operations of the petitioner being deliberately concealed to evade law enforcement surveillance. The petitioner is alleged to be persistent in his efforts to radicalize vulnerable individuals by inciting them to participate in anti-state activities.

10. By reference to the petitioner's said alleged activities, a pattern of his behavior was purportedly decoded to the effect that there is a credible threat that the petitioner may orchestrate fatal assaults targeting non-local labourers in brick kilns, minority communities, political figures, police and security personnel in the area. Thus, the petitioner's preventive detention was proposed to be an operational necessity. It has been very categorically referred in the dossier that preventive detention under J&K Public Safety Act, 1978 is essential to disrupt the petitioner's terror networks, prevent potential attacks on soft targets and maintain Public Order. The measure was

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recommended to be imperative to safeguard national security and ensure safety of citizens.

11. By reading and relying upon said dossier, the respondent No.2-District Magistrate, Budgam purportedly formulated grounds of detention which more or less read like a dossier to draw subjective satisfaction there from that unless and until the petitioner is detained, security of the State would remain jeopardized, thus, passed detention order No. DMB/PSA/14 of 2025 dated **30.04.2025** by ordering preventive detention of the petitioner in order to prevent him from acting in any manner prejudicial to the security of the State.

12. Upon arrest and detention of the petitioner taking place on **02.05.2025** carried out by SI Mushtaq Ahmad of Police Station, Chadoora before handing over his person to the Assistant Superintendent, Central Jail, Kot Bhalwal, Jammu, the petitioner is said to have been handed over a 24 leaves compilation accompanied with reading of the contents in English language and explaining to him in Urdu/Kashmiri

dialect which is said to have been fully understood by the petitioner besides being apprised of his right to make a representation to the Government as well as to the detention order making authority.

13. Approval to the detention order No. DMB/PSA/14 of 2025 dated **30.04.2025** came to be granted in terms of Government Order No. Home/PB-V/829 of 2025 dated **06.05.2025** with forwarding of the case to the Advisory Board for its opinion which came to be tendered on **26.05.2025** holding the petitioner's detention to be based on justifiable grounds. The Advisory Board even came to accord consideration to the representation of the petitioner submitted through his wife and found the said representation worth no favourable response.

14. The Advisory Board's opinion, thus, facilitated issuance of Government Order No. Home/PB-V/1135 of 2025 dated **05.06.2025** confirming the petitioner's detention and also prescribing period of detention for first period of six months w.e.f. **02.05.2025** till **01.11.2025** which period is said to have been

extended from time to time to last for full two years maximum detention period by reference to the detention under security of the State. It is by virtue of Government Order No. Home/PB-V/1965 of 2025 dated **30.10.2025** the petitioner's detention was extended from **02.11.2025** to **01.05.2026**.

15. The petitioner in his writ petition has assailed his detention on the grounds as set out in para 7 (a) to (m).

16. In his grounds of challenge, the petitioner comes forth stating that there is no nexus between the grounds of detention and the petitioner which have been fabricated to justify issuance of detention order as the grounds of detention are nothing but vague, vexatious and cryptic without baring a mention of any activity or name of any person with whom the petitioner was reckoned to have caused disruption of public order or acting in any manner prejudicial to the security of the State.

17. By mention of the petitioner's involvement in FIR No. **120/2020** and FIR No. **133/2018** and FIR No.

135/2018, the petitioner submits that the same are too distant in terms of reference to furnish any latest basis for considering his preventive detention custody. The petitioner submits that other than reference to three criminal cases, there is no iota of any other factual reference at the disposal of the District Police, Budgam to lay a claim for subjecting the petitioner to preventive detention as none of the cases by reference to proceedings under section 107 read with section 151 of the Code of Criminal Procedure, 1973 and section 126 read with section 171 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 as being the alleged basis was being tailored that too without said proceedings ever taken to logical end before the Executive Magistrate in calling upon the petitioner to furnish bond for the requisite purpose.

18. The petitioner also reference to the fact of being a beneficiary of the bail granted in all the criminal cases relatable to the three FIRs whereafter the petitioner is said to be living a normal life as a daily wager and being picked up only by the District Police to be condemned by reference to his past and suffer

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preventive detention in present. The petitioner comes forth with a loud reference that an important fact has been screened related to his previous detention in the year 2019 which came to be quashed by this Court.

19. The petitioner has very prominently referred to the fact that in order to overreach the discretion of the criminal court in granting the bail in favour of the petitioner the preventive detention recourse was resorted to.

20. The petitioner, acting through his wife, had addressed a representation dated **13.05.2025** to respondent No.1 on **14.05.2025** sent through registered post.

21. The respondents at their end have come forward defending the detention of the petitioner and urging this Court to ensure that petitioner deserves to serve full two years detention period in the backdrop of his alleged state of activities reported in the dossier on the basis whereof grounds of detention was formulated which earned an approval from the Advisory Board's assessment.

22. When this Court examines facts and circumstances of the case very closely, an aspect of immense importance comes out rushing which is to the fact that first the Senior Superintendent of Police, (SSP), Budgam screens fact of the grant of bail in favour of the petitioner by reference to his involvement in ongoing criminal cases before the competent court of law. In fact, from a bare reading of the dossier, the impression that all the three FIRs, i.e. **120/2020**, **133/2018** and **135/2018** upon being registered are still in state of investigation is very loud and clear as if the investigation of the FIRs of **2018** and **2020** are frozen in time. If the Senior Superintendent of Police, (SSP), Budgam is possessing this quality of information at his disposal, one wonders how this court can ascribe quality content to the rest of the information available at the end of the Senior Superintendent of Police, (SSP), Budgam on the basis whereof he came forth caricaturing the petitioner in bad light to the extent of reckoning him a case for suffering preventive detention custody. The Senior Superintendent of Police, (SSP), Budgam's confusion is

so apparent to the extent that he was not knowing whether the petitioner's alleged unspecified state of activities was prejudicial to the public order or to the security of the State and, thus, he comes up with a split reference to the public order as well as to the security of the State.

23. The Senior Superintendent of Police, (SSP), Budgam does not mention in his dossier for how long the petitioner remained in state of arrest by reference to all the three criminal cases and whether any court came forward granting bail in the petitioner's favour and if so, by virtue of which order and in what context. A very sweeping reference of expression used by the Senior Superintendent of Police, (SSP), Budgam is that the petitioner since his release from custody without explaining which custody the petitioner was earlier before being released, and this is why this Court is finding Senior Superintendent of Police, (SSP), Budgam in poor light in discharge of his duty maintaining a vigil on the activities of a prospective detenu to the extent of being ignorant as to which custody he was in before being released. Same

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ignorance came to be borrowed literally by the respondent No.2-District Magistrate, Budgam, who in the name of formulating grounds of detention is also lost to figure out about the status of the investigation of FIRs otherwise highlighted against the petitioner. The respondent No.2-District Magistrate, Budgam, thus, lead himself blind-folded to follow the dossier and order the detention of the petitioner by dropping out reference to public order and borrowing the expression security of the State in the name of improvement to the dossier.

24. This Court is afraid that this type of application of mind on the part of the Senior Superintendent of Police, (SSP), Budgam and the respondent No.2-District Magistrate, Budgam cannot be allowed to formulate a basis for subjecting a person to preventive detention custody when there is nothing factual in terms of context for figuring out the petitioner as a person whose activities are required to be checked by recourse only to preventive detention custody and not by any other means.

25. Accordingly, detention Order No.**DMB/PSA/14 of 2025** dated **30.04.2025** read with the approval/confirmation/extension orders passed by the respondent No.1 with respect to preventive detention of the petitioner are hereby quashed.

26. The petitioner is directed to be released from his preventive detention custody from the concerned Jail wherever the petitioner is being kept detained and the Superintendent of the concerned Jail shall release the petitioner forthwith.

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

28. Disposed of.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

02.07.2026

"Manzoor"

Whether the judgment is speaking : Yes / No

Whether the judgment is reportable : Yes / No