

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

Reserved on: 20.07.2026

Pronounced on: 31.07.2026

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

HCP No.114/2025

ARIF AHMAD MALLA

...PETITIONERS/APPELLANT(S)

Through: - Mr. Gulzar Ahmad Bhat, Advocate.

Vs.

UT OF J&K AND OTHERS

...RESPONDENT(S)

Through: - Mr. Hakeem Aman Ali, Dy. AG.

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

JUDGMENT

1) The petitioner has challenged detention order bearing No.06/DMB/PSA/2025 dated 28.04.2025, issued by District Magistrate, Baramulla-respondent No.2, whereby the detenue, namely, **Arif Ahmad Malla**, has been placed under preventive detention so as to prevent him from indulging in the activities which are prejudicial to the maintenance of security of the UT of J&K.

2) In the petition, it has been contended that that the impugned order of detention has been passed on hyper technical and self-contradictory grounds. It has been further contended that the allegations mentioned in the grounds of detention have no relevance and the same are not based on

any specific details. It has been contended that the impugned order of detention has been passed in violation of the constitutional safeguards and the relevant provisions of J&K Public Safety Act, 1987. It has also been contended that the representation submitted by the detainee through his wife has not been considered.

3) The respondents, in their counter affidavit, have contended that the impugned order of detention has been passed after proper application of mind. It has been further contended that the grounds urged by the petition are legally misconceived and factually untenable. It has been contended that the activities of the detainee have been found prejudicial to the security of the State. It has been contended that the impugned detention order has been passed by the detaining authority validly and legally after carefully examining the record/material. It is pleaded that the detention order and grounds of detention along with the material relied upon by the detaining authority were handed over to the detainee and the same were read over and explained to him. It has been further contended that the detainee was informed that he can make a representation to the government as well as to the detaining authority against his detention. It is also averred in the reply affidavit that all statutory requirements and constitutional guarantees have

been fulfilled and complied with by the detaining authority. The respondents have produced the detention record to lend support to the stand taken in the counter affidavit.

4) I have heard learned counsel for the parties and perused record of the cases including the detention record.

5) Learned counsel for the petitioner, while seeking quashment of the impugned order, projected various grounds but his main thrust during the course of arguments was on the ground that the grounds of detention are vague and cryptic, which prevented him from making an effective representation against his detention.

6) Upon perusal of the detention record produced by learned counsel for the respondents, the ground projected regarding vagueness of the averments made in the grounds of detention, appears to be forceful. In the grounds of detention, it is mentioned that the detainee provided all logistic support and assistance to the terrorist of LeT outfit. It is also mentioned in the grounds of detention that the detainee has maintained constant contact with active OGWs of the LeT outfit and that he has facilitated the movement of LeT terrorists within the Sopore area.

7) In the grounds of detention, there is no mention of the particulars of the places and the identity of the alleged

terrorists, to whom the petitioner was providing logistic support and assistance. There is no mention of the OGWs of the LeT terrorist outfit with whom the petitioner was in constant contact. The identity of the terrorists whose movement was being facilitated by the petitioner is also not mentioned. The particulars of the period when the detenu is alleged to have provided logistic support and assistance to these terrorists, when he managed to establish contact with OGWs and when he facilitated movement of terrorists, are also not mentioned in the grounds of detention. Thus, the grounds, being vague lacking in material particulars, the detenu could not have made an effective representation against his detention. Article 22(5) mandates that each ground for detention must be individually specified and not vague, ensuring transparency and accountability in the detention process. The grounds must not be vague, indefinite or general. Vague allegations make it impossible for the detenu to understand the reasons and effectively challenge the detention.

8) 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 detenu 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 detenu 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.”

9) 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. Thus, the impugned order of detention, in the instant case, cannot be sustained in law.

10) It has been further contended by learned counsel for the petitioner that the impugned order of detention has been

passed on the basis of stale incidents having no proximate link with the activities alleged to be prejudicial to the security of the State.

11) A perusal of the grounds of detention reveals that the incidents referred therein pertain to the year 2018, that is more than six years prior to the passing of impugned order of detention. There is no reference to any recent incident involving the petitioner in the grounds of detention. Thus, it is clear that the order of detention has been based on past and stale incidents.

12) The Supreme Court in the case of **Sama Aruna v. State of Telengana and & anr, (2018) 12 SCC 150**, while holding that the incidents which are said to have taken place long back, cannot form basis for being satisfied that the detenu is going to engage in similar activities, observed as under:

“17. We are, therefore, satisfied that the aforesaid detention order was passed on grounds which are stale and which could not have been considered as relevant for arriving at the subjective satisfaction that the detenu must be detained. The detention order must be based on a reasonable prognosis of the future behavior of a person based on his past conduct in light of the surrounding circumstances. The live and proximate link that must exist between the past conduct of a person and the imperative need to detain him must be taken to have been snapped in this case. A detention order which is founded on stale incidents, must be regarded as an order of punishment for a crime, passed without a trial, though purporting to be an order of preventive detention. The essential concept of preventive detention is that the detention of a person is

not to punish him for something he has done but to prevent him from doing it.”

From the aforesaid enunciation of the law on the subject, it is clear that there has to be a live and proximate link between the past conduct of the detainee and the activities alleged to be prejudicial to the maintenance of public order. In the instant case, the said link is completely missing as the time between the order of detention and the incidents referred to in the grounds of detention is far too large to presume such a link. The impugned order of detention, therefore, cannot be sustained.

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.

(Sanjay Dhar)
Judge

Srinagar:
31.07.2026
“Bhat Altaf-Secretary”

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