

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

HCP No.122/2025

Reserved on: 16.04.2026

Pronounced on: 22.04.2026

Uploaded on: 23.04.2026

Whether the operative part or full
judgment is pronounced: Full

Mohd Ashraf Mantoo
S/O Mohd. Ismail Mantoo
Through his mother Shahmala
W/O Mohd Ismail Mantoo
R/O Takiya Maqsood Shah,
Bijbehara, District Anantnag.

...Petitioner(s)

Through: Adv. M. Usman Gani.

Vs.

1. Union Territory of J&K through
Principal Secretary to Govt.
Home Department,
J&K Civil Sectt. Srinagar.

2. District Magistrate, Anantnag.

3. Senior Superintendent of Police,
District Anantnag.

4. Superintendent, Central Jail,
Jammu.

...Respondent(s)

Through: GA Ilyas Nazir Laway.

CORAM: HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

JUDGMENT

1. Preventive detention refers to the practice of detaining individuals without trial, to prevent them from committing potential offenses. Laws like the '*Jammu & Kashmir Public Safety Act*' empower authorities to detain

individuals based on perceived threats to Public Order or Security.

2. Through the medium of the present petition, the petitioner has challenged Order **No. 12/DMA/PSA/DET/2025 dated 26.04.2025** passed by the District Magistrate, Anantnag ('Detaining Authority' for short), whereby he has been taken into preventive custody with a view to prevent him from acting in any manner prejudicial to the security of the State/UT of J&K.

3. The petitioner seeks quashment of the impugned order of detention on the grounds that the same has been passed in a mechanical manner in utter disregard of the constitutional and statutory safeguards. It has been contended that the impugned order of detention has been passed without application of mind and without drawing subjective satisfaction, simply on the basis of dossier submitted by the Senior Superintendent of Police, District Anantnag; that the petitioner has not been informed as regards the period within which he was entitled to make a representation against the impugned order of detention to the Detaining Authority as well as to the Government; that the allegations leveled against the petitioner in the grounds of detention are without any basis and that the grounds of detention are replica of the Police dossier; and that the petitioner has not been furnished whole of the material forming basis of the grounds of detention. According to the petitioner, the

allegations made in the impugned order of detention are absolutely false and frivolous and that the same are vague.

4. Counter affidavit has been filed by the respondent No.2 in which it has been submitted that all the constitutional and statutory safeguards have been adhered to by the respondents while detaining the petitioner; that the whole of the material forming basis of the grounds of detention has been furnished to the petitioner. According to the respondents, the petitioner has been actively involved in separatist and secessionist ideologies and his involvement with terrorist networks and narcotic trafficking reveals a dangerous nexus between terrorism and drug trade. His role in creating hideouts, providing material support to the terrorists and facilitating their clandestine movements poses a direct threat to the national security and public tranquility. It has also been submitted that the petitioner has been providing logistic support to the terrorists and he is also harbouring such elements. It has been submitted that the petitioner's constant engagement in terror related activities have created disturbance, fear and atmosphere of insecurity in the UT of Jammu and Kashmir.

5. Thus, according to the respondents, the petitioner poses a great threat to the safety and security of the State/UT. It has also been submitted that the Detaining Authority has after examining the dossier submitted by the Senior Superintendent of Police, Anantnag, analysed the material and drawn its subjective satisfaction after due application

of mind. It has also been submitted that contents of the material supplied to the petitioner have been read over and explained to him in Urdu/Kashmiri languages, which he fully understands.

6. Heard learned counsel for the parties, perused the record and considered the matter.
7. Learned counsel for the petitioner during the course of arguments has restricted his arguments only to three grounds. Firstly, that the petitioner has not been furnished whole of the material forming basis of the grounds of detention which has prevented him from making an effective representation against the impugned order of detention; secondly that the grounds of detention is a replica of the Police dossier which indicates that there has been non-application of mind on the part of the Detaining Authority while drawing its subjective satisfaction in the matter; and thirdly that representation filed on behalf of detainee was not considered.
8. Learned counsel for the respondents, *ex adverso*, argued that the detainee was involved in two criminal cases registered vide FIR No.192/2021 under NDPS Act and FIR No.94/2022 under UAP Act at Police Station Bijbehara and on being admitted to bail, the detainee was found involved himself in creation of underground hideout in orchards to facilitate shelter to terrorists and providing of logistic support to them; that he indulged in subversive activities being affiliated with LeT; that he was provided whole of

the material relied upon; and that representation filed on behalf of detainee was considered and rejected by the Government of which he was informed.

9. So far as the first ground raised by the learned counsel for the petitioner is concerned, it appears from the detention record that the petitioner was provided with detention order (01 leaf), notice of detention (01 leaf), grounds of detention (02 leaves), dossier of detention (05 leaves), copies of FIR, statements of witnesses and other related relevant documents (27 leaves) total (36 leaves). The receipt executed by the petitioner clearly indicates that he has received copies of all the aforesaid documents upon his detention.

10. So far as the second contention of learned counsel for the petitioner is concerned, the same also appears to be without any substance. A perusal of grounds of detention and their comparison with the dossier of detention does not lead this Court to the conclusion that the grounds of detention are replica of the dossier. Merely because there is reproduction of the certain factual aspects narrated in the Police dossier in the grounds of detention, does not necessarily prove non-application of mind by the Detaining Authority. The grounds of detention clearly indicate that the Detaining Authority has applied its mind after noticing the facts mentioned in the dossier of detention. The Detaining Authority has noted that the petitioner's involvement with terrorist networks and narcotic trafficking divulge a

dangerous nexus between terrorism and drug trade. It has also been noted by the Detaining Authority that the petitioner is deeply affiliated with the banned terrorist outfit Lashkar-e-Taiba (LeT) and he has been providing material support to the terrorists and facilitating their clandestine movements. His activities have the potential to influence vulnerable youth towards radicalization and insurgency, thereby disturbing the fragile security environment of the UT of J&K. Upon noticing all these facts, the Detaining Authority has drawn its subjective satisfaction that in order to uphold the security interests of the UT of J&K and the Indian State, it is imperative to detain the petitioner. Thus, it cannot be stated that there has been any mechanical exercise of power on the part of the Detaining Authority while passing the impugned order of detention.

11. The third contention by the learned counsel for the respondents that representation filed on behalf of detainee was not considered is concerned, as per record the representation was considered and rejected by the Government as conveyed to the detainee through Superintendent, Central Jail, Jammu vide communication No.Home/PB-V/156/2025/7643551 dated 10.06.2025.
12. As such, the impugned detention order was passed by the detaining authority against the detainee in order to prevent him from indulging into the activities that are detrimental to the security of the State, on the grounds that the detainee

is an anti-national element and figuring adversely in the Police records for his involvement in anti-national activities; that the activities of detainee had emerged a threat to the Security of State/UT of J&K; that the detainee has an incorrigible criminal bent of mind which is quite evident from his conduct over a period of time; that the detainee facilitated creation of an underground hideout in orchards to shelter terrorists and provided logistic support to them; that a case FIR No. 192/2021 U/S 8/15/NDPS Act and FIR No. 94/2022 U/S 18, 19, 38 UAP Act was registered against the detainee at P/S Bijbehara; that despite securing bail in both the cases, the detainee post-release continues to indulge in anti-national and subversive activities and remains deeply affiliated with the banned terrorist outfit 'LeT'; that the detainee is a staunch follower and an associate of anti-nationals involved in a series of criminal activities which have potentially disturbed the public peace and tranquility; that he is actively involved in instigating and provoking the gullible youth of the area for indulging in activities which are prejudicial to the Security of State/UT of J&K; that the detainee remains persistently involved with terrorist networks and narcotic trafficking which reveals a dangerous nexus between terrorism and drug trade; that the detainee has voluntarily developed contacts with various secessionist/ nefarious organizations to carry out the anti- national activities; that the ordinary law of the land does not seem sufficient to deter the

detenue from his nefarious/ anti-national activities; that the detaining authority found it necessary and imperative to invoke the relevant provisions of Public Safety Act, 1978 and detain the detenue in order to preclude the detenue from indulging in activities which would be prejudicial to the Security of State/UT of J&K.

13. It would be apposite to say that right of personal liberty is most precious right, guaranteed under the Constitution. A person is not to be deprived of his personal liberty, except in accordance with procedures established under law and the procedure as laid down in the case '**Maneka Gandhi vs. Union of India, (1978 AIR SC 597)**', is to be just and fair. The personal liberty may be curtailed where a person faces a criminal charge or is convicted of an offence and sentenced to imprisonment. Where a person is facing trial on a criminal charge and is temporarily deprived of his personal liberty owing to criminal charge framed against him, he has an opportunity to defend himself and to be acquitted of the charge in case prosecution fails to bring home his guilt. Where such person is convicted of offence, he still has satisfaction of having been given adequate opportunity to contest the charge and also adduce evidence in his defense.

14. However, framers of the Constitution have, by incorporating **Article 22(5)** in the Constitution, left room for detention of a person without a formal charge and trial and without such person being held guilty of an offence and sentenced to imprisonment by a competent court. Its aim and object are

to save society from activities that are likely to deprive a large number of people of their right to life and personal liberty. In such a case it would be dangerous, for the people at large, to wait and watch as by the time ordinary law is set into motion, the person, having dangerous designs, would execute his plans, exposing general public to risk and causing colossal damage to life and property. It is, for that reason, necessary to take preventive measures and prevent a person bent upon to perpetrate mischief from translating his ideas into action. **Article 22(5)** of the Constitution of India, therefore, leaves scope for enactment of preventive detention law.

15. Those who are responsible for national security or for maintenance of public order must be the sole judges of what the national security, public order or security of the State requires. Preventive detention is devised to afford protection to society. The object is not to punish a man for having done something but to intercept before he does it and to prevent him from doing. Justification for such detention is suspicion or reasonable probability and not criminal conviction, which can only be warranted by legal evidence. Thus, any preventive measures, even if they involve some restraint or hardship upon individuals, as held by the Supreme Court in the case '**Ashok Kumar v. Delhi Administration & Ors.**' reported as **AIR 1982 SC 1143**, do not contribute in any way of the nature of punishment.

16. In the backdrop of foregoing discussion, the petition is found devoid of any merit and is, accordingly, **dismissed**.
17. Scanned detention record, as produced, be returned to learned counsel for respondents.

(M. A. CHOWDHARY)
JUDGE

Srinagar
22.04.2026
Muzammil. Q

Whether the order is reportable: Yes / No

