

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

*Reserved on: 29.08.2026
Pronounced on: 08.09.2026*

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

HCP No.138/2025

FAIZAN YASEEN SHALLA

...PETITIONER(S)/APPELLANT(S)

Through: - Mr. Tassaduq H. Khawaja, Sr. Adv., with
Mr. Naseer-ul-Akbar, Advocate.

Vs.

UT OF J&K &ORS

...RESPONDENT(S)

Through: - Ms. Maha Majeed, Assisting Counsel, vice
Mr. Mohsin Qadiri, Sr. AAG.

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

JUDGMENT

1) Impugned in this petition is the detention order bearing No. DMS/PSA/18/2025 dated 07.05.2025, issued by District Magistrate, Srinagar, whereby the detinue, namely, **Faizan Yaseen Shalla**, has been placed under preventive detention for preventing him from indulging in the activities which are detrimental to the security of the State.

2) It has been contended that the allegations mentioned in the grounds of detention have no nexus with the detinue and that the same have been fabricated by the police in order to justify its illegal action of detaining the detinue. It has been

contended that grounds of detention are vague and non-existent, on the basis of which no prudent man can make an effective representation. It has been contended that the last alleged activity attributed to the detainee as per the grounds of detention has taken place in the year 2017 and thereafter no fresh activity has been attributed to him, as such, there is a delay of more than six years between the last alleged activity and the order of detention and this delay has snapped the proximity of the alleged activity and the order of detention. It has also been contended that the procedural safeguards have not been complied with in the instant case, inasmuch as whole of the material which formed basis of the grounds of detention and the translated version thereof has not been supplied to the petitioner and that the representation filed by the petitioner against his detention has not been considered well in time.

3) The respondents, in their counter affidavit, have contended that while issuing the impugned detention order, all the statutory requirements and constitutional guarantees have been fulfilled and complied with by the detaining authority. 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 case.

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, cryptic lacking in material particulars, which prevented the detainee from making an effective and suitable representation against his detention

6) In the above context, it will be profitable to extract the relevant portions of the grounds of detention, which read thus:

“....you were deeply influenced by radical ideology and came into contact with active terrorists and OGWs of banned outfit TRF who motivated you to

work for the outfit as an Over Ground Worker for providing logistic support.....”

“.....you because a hardcore fundamentalist and sympathizer of terrorist and also provided logistic support to the terrorists...”

“....you have been found to be a close supporter and harbourer of terrorists....”

7) A perusal of the above quoted extracts of the grounds of detention clearly shows that the same are vague lacking in material particulars. In the grounds of detention, there is no mention of the particulars of the places and the identity of the alleged terrorists of banned outfit TRF with whom he had come into contact, nor there is any mention of the particulars of the terrorists to whom the petitioner had provided the logistic support. The particulars of the period when the detenue is alleged to have come into contact with these terrorists and when he provided logistic support to them are also not mentioned in the grounds of detention. Thus, the grounds, being vague lacking in material particulars, the detenue could not have made an effective representation against his detention.

8) 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.

9) 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.”

10) 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. On this ground alone, the impugned order of detention is liable to be set aside.

11) It has next been contended by the learned Senior Counsel appearing for the petitioner that, even though it is mentioned in the grounds of detention that the petitioner was bound down in terms of Sections 126/170 of the BNSS on as many as three occasions, yet there is nothing on record to show as to what was the outcome of the proceedings initiated against the petitioner. It has been contended that no material has been placed on record by the respondents to show whether, pursuant to the breach of the bonds by the petitioner, any proceedings were initiated against him in terms of the provisions of the BNSS. According to the learned Senior Counsel, unless it is shown that there were compelling reasons for the detaining authority to resort to preventive detention, even after having proceeded against the petitioner in terms of Sections 126/170 of the BNSS, the order of detention cannot be sustained.

12) In the above context, if we have a look at the grounds of detention, it is clearly indicated therein that the petitioner was bound down on 04.09.2025, 15.04.2025 and 29.04.2025 under Sections 126/170 of the BNSS. It has also been recorded in the grounds of detention that the petitioner did not mend his ways and continued to indulge in activities which are prejudicial to the maintenance of the security of the UT of J&K. No particulars of such activities have been mentioned in the grounds of detention. There is nothing on record to show what was the outcome of the proceedings initiated against the petitioner under Sections 126/170 of the BNSS. It is also not forthcoming as to whether or not the competent authority proceeded to take the proceedings initiated against the petitioner under Sections 127/170 of the BNSS to their logical conclusion in accordance with the provisions contained in the BNSS. The failure on the part of the respondents to place on record the proceedings and outcome of the proceedings initiated under Sections 127/170 of the BNSS is fatal (Refer: **Abinash Kumar vs. UT of J&K, 2024 SCC OnLine J&K 901**).

13) Besides this, in the grounds of detention, it has not been spelled out as to what were the compelling reasons for the detaining authority to resort to the measure of preventive

detention against the petitioner, even after binding him down in terms of Sections 126/170 of the BNSS. So far as the beat reports dated 14.04.2025 and 30.04.2025 mentioned in the grounds of detention are concerned, it is to be noted that only vague allegations have been made in the said reports. No specific overt activity has been attributed to the petitioner in these beat reports. Therefore, on the basis of these vague beat reports, it cannot be stated that the detaining authority had compelling reasons to pass the impugned order of detention. On this ground also the impugned order of detention is not sustainable in law.

14) 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.

15) The detention record be returned to learned counsel for the respondents.

(Sanjay Dhar)
Judge

Srinagar:
08.09.2026
“Bhat Altaf-Sherzad”

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