

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

HCP No. 142/2025

Pronounced on : **27.08.2026**

Mehraj-Ud-Din Khanday

.....Petitioner(s)

Through: M/s Rizwan ul Zaman, Danish Khursheed,
Advocates.

Vs

UT of J&K and others

..... Respondents

Through: Mr. Mohsin Qadri, Sr.AAG with
Ms. Rahila Khan, Assisting counsel.

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

JUDGMENT

01. The petitioner-Mehraj-Ud-Din Khanday, acting through his father-Ghulam Hassan Khanday, came up with this writ petition on **26.05.2025** while being in a state of preventive detention custody lodged in the District Jail, Udhampur, for the purpose of seeking a writ of habeas corpus to earn restoration of his personal liberty by quashment not only of the preventive detention order but also exercise underlying thereto.

02. The facts of the case as drawn from the pleadings and the detention record are that by virtue of an **FIR No.535 of 2007** registered by the Police Station Anantnag for alleged commission of offences which

include the offence under section **7/25 Arms Act**, the petitioner had suffered a trial wherein he came to earn acquittal from the court of learned Sessions Judge, Anantnag in terms of the judgment dated **30.10.2012**. This is what an adverse antecedent of the petitioner related with his life is.

03. The Senior Superintendent of Police (SSP), Anantnag, by way of a communication No. **CS/71/2025/7184-89** dated **14.05.2025**, submitted **18 leaves** compilation in the form of a dossier to the respondent No.4-District Magistrate, Anantnag for the purpose of soliciting exercise of jurisdiction under the J&K Public Safety Act, 1978 to order the preventive detention of the petitioner in order to prevent him from acting in a manner prejudicial to the security of the State/UT of J&K.

04. The respondent No.4-District Magistrate, Anantnag, at his end, on purported application of mind through the dossier felt convinced that a case was made out for ordering preventive detention of the petitioner under the J&K Public Safety Act, 1978 and, thus, passed detention order **No.22/DMA/PSA/DET/2025** dated **15.05.2025** thereby ordering the detention of the petitioner so as to prevent him from acting in a manner

prejudicial to the security of the State/UT of J&K and ordering his confinement in the District Jail, Udhampur for a period to be specified by the Government.

05. Said order of detention so passed by the respondent No.4-District Magistrate, Anantnag was based on the grounds of detention as formulated in which the involvement of the petitioner in the criminal case related with **FIR No.535 of 2007** is a frontal introduction related with the petitioner's state of conduct as if without bearing introduction of which very edifice of the grounds of detention would have failed to earn a kick start from the end of the respondent No.4-District Magistrate, Anantnag in his grounds of detention and from the end of the Senior Superintendent of Police (SSP), Anantnag in his dossier.

06. The petitioner is referred, in the grounds of detention, to be a person with past criminal history but remained silent for a quite long spell of time only to come on the radar of the Security Agencies that the petitioner had got interested in supporting terrorist organizations by working as 'OGW' of a banned terrorist organization 'HM' outfit aiding and providing the terrorists with food,

shelter and transportation with an objective to disrupt sovereignty, unity and integrity of the UT of J&K and Union of India.

07. By repeat of this profile in the grounds of detention and also by borrowing reference of Baisaran Pahalgam episode related with killing of the innocent tourists, the petitioner was reckoned to be a high risk security scenario rendering him liable to suffer preventive detention custody.

08. The dossier submitted by the Senior Superintendent of Police (SSP), Anantnag and the grounds of detention formulated by the respondent No.4-District Magistrate, Anantnag, are mirror image of each other except **font size** and also that the dossier has no paragraph numbers whereas the grounds of detention have the same.

09. Coinciding with passing of the detention order **No.22/DMA/PSA/DET/2025** dated **15.05.2025**, the respondent No.4-District Magistrate, Anantnag by virtue of a Notice No. **DMA/JC/PSA/2025/139-44** dated **15.05.2026** meant to notify the petitioner about the fact of passing of detention order for arrest and detention.

- 10.** On issuance of this detention Order **No.22/DMA/PSA/DET/2025** dated **15.05.2025**, the Police Station, Bijbehara, through its **Sub Inspector Meerak Shah**, came to arrest the petitioner on **17.05.2025** and before delivering him to the Superintendent District Jail, Udhampur handed over **24 leaves** compilation to the petitioner thereby apprising him about the contents of the notice of detention, order of detention and grounds of detention.
- 11.** Approval to the detention order **No.22/DMA/PSA/DET/2025** dated **15.05.2025** of respondent No.4-District Magistrate, Anantnag came to be accorded by virtue of Government Order No. **Home/PB-V/956 of 2025** dated **19.05.2025** and the case was referred for the opinion of the Advisory Board.
- 12.** From the end of the petitioner, a representation dated **21.05.2025** came to be addressed by his father to the respondent No.4-District Magistrate, Anantnag.
- 13.** Said representation was received in the office of the respondent No.4-District Magistrate, Anantnag on **28.05.2025** who forwarded the same, vide covering letter No. **DMA/Judicial/Gen/2025/825-30** dated **28.05.2025**, to the Home Department, Government of UT of J&K with a mention made that the representation

has been made from the end of the mother of the petitioner.

14. The Advisory Board came forward with its opinion report dated **02.06.2025** bearing a recital that the representation of the petitioner so submitted has been considered to be found without any merit and thus, recommended that the detention of the petitioner was resting on justifiable grounds.

15. The Advisory Board's opinion report dated **02.06.2025** resulted in confirmation of the petitioner's detention with issuance of Government Order No. **Home/PB-V/1219 of 2025** dated **12.06.2025** settling the first installment of the detention of the petitioner for a period of six months w.e.f., **17.05.2025 to 16.11.2025** which came to be then extended and is meant to last for full period of two years to expire on **16.05.2027**.

16. The petitioner in his writ petition has assailed his detention on the grounds as set out in **Para-9(A) to (H)**.

17. Before the counter affidavit from the end of the respondents came to be filed on **22.07.2025** in the matter, the fate of the petitioner's representation upon being examined was found to be without merit and came to be conveyed by the Home Department, UT of

J&K by its letter No. **Home/PB-V/318/2025/7648828** dated **12.06.2025** to the respondent No.4-District Magistrate, Anantnag wherefrom the communication is supposed to have been addressed to the Superintendent, District Jail Udhampur who vide his return communication No. **DJU/MS/25/5918-60** dated **21.06.2025** addressed to the Home Department, UT of J&K is said to have informed the petitioner about rejection of his representation against his preventive detention.

18. This Court needs not to tax itself to go through the grounds of challenge supporting the preventive detention of the petitioner operating in furtherance of the preventive detention order **No.22/DMA/PSA/DET/2025** dated **15.05.2025** for the purposes of adjudging as to whether the preventive detention of the petitioner is legal and valid so as to earn its full two years' detention course.

19. This Court has come across with a very fundamental flaw leaving this Court even in a state of utter concern as to whether before coming up with his application of mind on the dossier for passing the detention order **No.22/DMA/PSA/DET/2025** dated **15.05.2025**, the respondent No.4-District Magistrate, Anantnag had

already made up his mind before hand to get the petitioner suffer preventive detention.

20. This Court is coming across with this observation because of the record reading submitted in connection with the present case from the end of the respondents wherein in response to the respondent No.4-District Magistrate, Anantnag's letter No. **DMA/Judicial/Gen/2025/583-84** dated **14.05.2025**, the Director General of Police, Prison Department, J&K, acting through its Staff Officer, in communication No. **DS/E-7577606/2086-88** dated **14.05.2025** came to apprise the respondent No.4-District Magistrate, Anantnag that not only the petitioner herein-Mehraj-Ud-Din Khanday but also one Tariq Ahmad Shah can be lodged at District Jail, Udhampur. This communication of the Staff Officer to DGP, Prisons J&K was with approval of DGP, Prisons J&K.

21. Thus, simultaneous with the dossier being generated from the end of the Senior Superintendent of Police (SSP), Anantnag against the petitioner and before the same landing on the table of respondent No.4-District Magistrate, Anantnag it was already decided by interplay of thought sharing between the Senior Superintendent of Police (SSP), Anantnag and the

respondent No.4-District Magistrate, Anantnag as to the jail in which the petitioner is to be kept detained and that is the reason the respondent No.4-District Magistrate, Anantnag had addressed a communication on **14.05.2025** itself to the Director General of Police, Prisons Department, J&K.

22. If respondent No.4-District Magistrate, Anantnag had predetermined subjecting the petitioner to preventive detention custody, then formulating of grounds of detention and passing of detention order **No.22/DMA/PSA/DET/2025** dated **15.05.2025** on next day i.e. **15.05.2025** is nothing but a sham exercise at the end of the respondent No.4-District Magistrate, Anantnag leaving the constitutional trust with respect to preventive detention custody jurisdiction embarrassed to say the least.

23. This Court cannot become privy in this gross abuse of preventive detention jurisdiction at the end of the respondent No.4-District Magistrate, Anantnag complemented by the Home Department, Government of UT of J&K and ignored by none other than the Advisory Board, J&K. Therefore, the preventive detention of the petitioner pursuant to the detention order **No.22/DMA/PSA/DET/2025** dated **15.05.2025**

approved and confirmed by the subsequent Government orders, as illegal seriously vitiated right from inception and, therefore, quashes the detention order **No.22/DMA/PSA/DET/2025** dated **15.05.2025** read with approval/confirmation/extension orders. The petitioner is hereby ordered to be restored to his personal liberty forthwith by his release from the District Jail, Udhampur or any other jail to which a person of petitioner may have been shifted. Superintendent concerned Jail to act in abidance by ensuring release of the petitioner.

24. Disposed of.

(RAHUL BHARTI)
JUDGE

SRINAGAR
27.08.2026
Muzammil. Q

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