

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

HCP 192/2024

Date of pronouncement 19-02-2026

Uploaded on 23-02-2026

ZAKIR HUSSAIN BHAT

...Petitioner/Appellant(s)

Through: Mr. Shabir Ahmad Dar, Advocate.

Vs.

UNION TERRITORY OF J AND K AND ORS. (HOME DEPARTMENT) ...Respondent(s)

Through: Mr. Ilyas Laway, GA.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

19.02.2026

ORAL

1. The petitioner in the instant petition filed under Article 226 of the Constitution has sought a writ of Certiorari for quashing of detention order No. 08/DMA/PSA/DET/2024, Dated 20-04-2024 (for short "the impugned order") passed by respondent 2 (for short "the detaining authority") under and in terms of provisions of JK Public Safety Act 1978 (for short "the Act of 1978).

2. The petitioner has challenged the impugned order on multiple grounds urged in the petition.

3. Reply affidavit has been filed by the respondents to the petition, wherein the petition is being opposed on the premise that the petitioner has been an Over Ground Worker(OGW) of the terrorist organization Let/TRF having been providing assistance in the year 2022-2023 to terrorists including one terrorist namely Mohammad Uzair Khan Khan, who got killed and that thereafter the petitioner though was bound down under relevant law and

released on a surety bond yet the secret information received revealed that the petitioner after his release on a surety bond, has been in close touch and contact with OGW's and other associates of the LeT outfit and that the detaining authority, after being furnished with the dossier and the said material thereto derived subjective to satisfaction that the activities of the petitioner are pre-judicial to the security of the State/UT of Jammu and Kashmir, necessitating his preventive detention and consequently, ordered the detention of the petitioner in terms of order dated 20-04-2024, with a view to prevent him from acting in any manner, which is pre-judicial to the security of State/UT of Jammu and Kashmir.

It is further stated that upon preventive detention of the petitioner, the warrant of detention was executed on 24-04-2024 by ASI Surinder Kumar of Police Station Bejbehara, and the contents of the order of detention as well as and grounds of detention were read over and explained to him in the language which he fully understood and in lieu thereof, the petitioner put his signatures on the execution report, while stating further that the entire material relied upon by the detaining authority for detention of the petitioner was furnished to the petitioner and was also informed of his right of making a representation against the order of detention to the District Magistrate and to the Government.

It is further stated that the Government approved the detention of the petitioner in terms of order dated 29-04-2024 and the advisory board as well expressed its opinion in favor of the detention of the petitioner on 14-05-2024, where after the order of detention came to be confirmed by the Government on 24-05-2024.

It is lastly stated that in the process of ordering of preventive detention of the petitioner, the detaining authority fulfilled and complied with all statutory requirements and constitutional guarantees.

Heard counsel for the parties and perused the record.

4. The first ground urged by the counsel for the petitioner in line with the grounds urged in the petition while making his submissions is that the petitioner was not furnished the detention papers as also the material in the language he understood as he could not read and write English and that no activity post years 2022-2023 had been attributed to the petitioner necessitating his detention thereby there exists no proximate live link between the impugned order as well as the activities of the years 2022-2023. It is further contended by the counsel for the petitioner that the material relied upon by the detaining authority was not provided to him, as such, he was rendered incapable of making an effective representation against his detention as also on account of non-furnishing of the said material in the language he understood.

5. On the contrary, the counsel for the respondents would controvert the contentions of the counsel for the petitioner and, in support thereof, would heavily rely upon the counter affidavit filed to the petition as also detention record produced for examination of the Court.

6. Insofar as the aforesaid first plea of the counsel for the petitioner is concerned, the detention record bears testimony to the fact that the officer who has executed the detention order upon the petitioner has submitted an execution report dated 24-04-2024 bearing the signature of the petitioner, suggesting that the petitioner has received 22 leaves of the material consisting

of detention order, notice of detention, grounds of detention, dossier of detention, copies of FIR and statement of witnesses etc. also signifying that the executing officer has read over and explained the contents of the detention warrant and grounds of detention in the Urdu and Kashmiri language to the petitioner in respect whereof the petitioner has affixed his signatures thereto. Therefore, in this view of the matter, the aforesaid plea of the counsel for the petitioner is found to be factually unfounded, more so in absence of any pleading filed by the petitioner in opposition to the counter affidavit filed by the respondents.

7. Insofar as the aforesaid next plea of the counsel for the petitioner is concerned, the perusal of the grounds of detention as also the detention record produced by counsel for the respondents tends to show that post the years 2022-2023, the petitioner admittedly has been bound down under relevant law, owing to his activities found to be pre-judicial to the security of the State/UT of Jammu and Kashmir. Further closer examination of the detention record also reveals that the agencies have collected information regarding the activities of the petitioner and furnished the same to responding agency post the years 2022-2023 having been found to be in close contact with OGWs of various terrorist organizations. Therefore, it cannot, but be said, that not only the sponsoring agency, but also the detaining authority, have had been alive to the activities of the petitioner post the years 2022-2023, and based upon such activities, ordered preventive detention of the petitioner as a preventive precautionary measure in a reasonable anticipation. The said activities post the years 2022-2023, particularly in the year 2024 prior to the passing of detention order admittedly signify a live proximate link between the said activities of the petitioner and the impugned order. Thus, in this view of the

matter the aforesaid plea of the counsel for the petitioner is found to be legally untenable.

8. The last plea of the counsel for the petitioner that the material relied upon by the detaining authority was not furnished to the petitioner stands already adverted to in the preceding paras, in that, it has been found from the perusal of the detention record that the petitioner stands furnished the material relied upon by the detaining authority and in lieu of the receipt of the said material, the petitioner admittedly has affixed his signatures on the execution report forming part of the detention record. Therefore, the instant plea of the counsel for the petitioner also is found to be factually baseless.

9. It is pertinent to mention here that the object of law preventive detention has been threadbare deliberated upon and discussed by the Apex Court in series of Judgments including in case titled as “**Haradhan Saha vs. State of W.B**” reported in **1975(3) SCC 198** where in at **para 32 and 33** following has been held;

“32. The power of preventive detention is qualitatively different from punitive detention. The power of preventive detention is a precautionary power exercised in reasonable anticipation. It may or may not relate to an offence. It is not a parallel proceeding. It does not overlap with prosecution even if it relies on certain facts for which prosecution may be launched or may have been launched. An order of preventive detention, may be made before or during prosecution. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even acquittal. The pendency of prosecution is no bar to an order of preventive detention. An order of preventive detention is also not a bar to prosecution.

33. Article 14 is inapplicable because preventive detention and prosecution are not synonymous. The purposes are different. The authorities are different. The nature of proceedings is different. In a prosecution an accused is sought to be punished for a past act. In preventive detention, the past act is merely

the material for inference about the future course of probable conduct on the part of the detenu”.

- 10. Viewed thus, for aforesaid reasons the impugned order is found to be legally valid not calling for any interference.
- 11. Resultantly, the petition fails and is **dismissed**.
- 12. The detention record produced by the counsel for the respondents is returned back in the open Court.

SRINAGAR
19.02.2026
Sarvar

