

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

Date of Pronouncement: 10.03.2026

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HCP No.173/2025

ARSALAN BASHIR DAR

...Petitioner/Appellant(s)

Through: Mr. S. H. Thakur, Advocate vice
Mr. Z. A. Qureshi, Sr. Advocate.

Vs.

UNION TERRITORY OF J&K AND ORS.

...Respondent(s)

Through: Mr. Furqan Yaqoob Sofi, GA.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

10.03.2026

(ORAL)

1. The petitioner in the instant petition has challenged detention order No.22/DMP/PSA/25 dated 03.05.2025 (for short 'the impugned order') passed by respondent 2 (for short 'the detaining authority'), under and in terms of the provisions of J&K Public Safety Act, 1978 (for short 'the Act of 1978').
2. The petitioner has challenged the impugned order on the grounds that the impugned order is vitiated for non-application of mind by the detaining authority who claimed to have perused the dossier and connected documents submitted by the Sr. Superintendent of Police, Awantipora, for detention of the petitioner without there being any other connected material as only order of detention, grounds of detention came to be supplied to the petitioner and not any connected documents or underlying material considered by the detaining authority.

It is further urged in the grounds of challenge that the detaining authority for the purpose of preventive detention of the petitioner has relied upon a stale FIR bearing No.71/2022 having been registered

prior to the preventive detention of the petitioner in which FIR the petitioner came to be granted bail and that there has been no live or proximate link between the said FIR and the impugned order.

It is also urged in the grounds of challenge that the grounds of detention are vague, without indicating the details and particulars of the terrorists, the petitioner has been involved in allegedly in providing logistic support which failure on the part of the detaining authority rendered the petitioner incapable for making an effective representation against the detention.

- 3. Reply affidavit** to the petition has been filed by respondent 2 wherein the petition is being opposed, *inter alia*, on the premise that the petitioner came to be detained by the detaining authority on account of his involvement in the activities being prejudicial to the security of the State and though the petitioner was previously involved in FIR No.71/2022 registered with Police Station Pampore in which FIR the petitioner came to be enlarged on bail by the competent court of jurisdiction yet, the petitioner continued with his illegal activities, necessitating his preventive detention.

It is further stated that all the statutory requirements and Constitutional guarantee came to be fulfilled and complied with by the detaining authority in the process of detaining the petitioner and that the grounds of detention, order of detention as well as the entire material relied upon by the detaining authority was handed over to the petitioner within the statutory period and that the order of detention as well as the grounds of detention were read over to the petitioner in the language he understood and was also informed about his right to make a representation against the order of detention.

Heard counsel for the parties and perused the record.

- 4.** Perusal of the record in general and the impugned order in particular reveals that detaining authority has specifically provided therein that upon production of dossier and “other connected documents” in respect of the petitioner and also after perusing the contents and recommendations made in the dossier carefully, the preventive

detention of the petitioner is, ordered under Section 8 of the Act of 1978.

5. Further perusal of the execution report contained in the detention record produced by counsel for the respondents reveals that at the time of execution of the impugned order, the petitioner stands furnished 37 leaves of the record, comprising, one leaf of detention order, one leaf of notice of detention, three leaves of grounds of detention, and six leaves of dossier. The said execution report also provides that besides the said documents the statement of witnesses and “other relied documents” consisting of 26 leaves, stand handed over to the petitioner, however, neither in the reply affidavit, documents attached therewith or else from the detention record produced by counsel for the respondents, it is forthcoming that what were “relied documents” or else what are “other connected documents” as provided in the order of detention those were considered and relied upon by the detaining authority while detaining the petitioner. In this view of the matter, it is manifest that detaining authority has acted arbitrarily while detaining the petitioner and has consequently without application of mind ordered the detention of the petitioner in terms of the impugned order.
6. Further perusal of the record available on the file as well as the detention record produced by counsel for the respondents do not specifically spell out the details/particulars of the activities with specific day, date and time inasmuch as the alleged terrorists the petitioner have had been associated with for providing them the alleged logistic support. The grounds of detention thus, cannot but be said to be vague and ambiguous having rendered the petitioner incapable of making an effective representation against his detention.
7. It also gets revealed from the record available on the file as well as the detention record produced by counsel for the respondents that the petitioner admittedly has been detained on account of his involvement in FIR No.71/2022 wherein the petitioner had been granted bail by the competent court on 10.07.2024 and without seeking cancellation of such bail for the alleged activities attributing to the petitioner post

grant of such bail the respondents seemingly have taken short cut method for detaining the petitioner under preventive detention.

8. Having regard to the aforesaid position obtaining in the matter, the instant deserves to be allowed.

9. Accordingly, the petition is allowed and the impugned order No.22/DMP/PSA/25 dated 03.05.2025 is quashed and respondents accordingly are directed to release the petitioner from the preventive detention forthwith, provided he is not required in any other case.

10. Disposed of.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

10.03.2026

Ishaq

