

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

Pronounced on : 29.06.2026

HCP No. 177/2025

Ishtiyaq Ahmad Malik

.....Petitioner

Through: Mr. Uthman Gani, Advocate

Vs

UT of J&K and others

..... Respondents

Through: Mr. Jahangeer A. Dar, GA

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

01. Heard learned counsel for both sides.
02. Perused the writ record and the documents therewith.
03. The petitioner – Ishtiyaq Ahmad Malik, acting through his mother – Nazeera Begum came forward with the institution of present writ petition on **31.05.2025** being aggrieved of preventive detention imposed custody upon him by the respondent No. 2 – District Magistrate, Anantnag in exercise of power under the Jammu & Kashmir Public Safety Act, 1978 in terms whereof the petitioner came to be taken

into detention custody on **28.04.2025** and confined in the Central Jail Kot Bhalwal, Jammu.

04. The respondent No. 2 – District Magistrate, Anantnag, in exercise of power under the Jammu & Kashmir Public Safety Act, 1978, issued detention order **No. 09/DMA/PSA/DET/2025** dated **26.04.2025** whereby the petitioner's personal liberty was reckoned to be prejudicial to the security of the State/Union Territory of J&K and, thus, necessitating his detention in order to prevent him from acting and indulging in activities so reckoned prejudicial to the security of the State.

05. It is the Sr. Superintendent of Police (SSP), Anantnag who, vide his letter **No. CS/71/2025/5676-81** dated **26.04.2025**, had come to submit a dossier related to the petitioner to the respondent No. 2 – District Magistrate, Anantnag, thereby, soliciting issuance of detention order against the petitioner.

06. Purportedly acting upon said dossier of the Sr. Superintendent of Police (SSP), Anantnag, the respondent No. 2 – District Magistrate, Anantnag formulated purported grounds of detention referring therein about the petitioner's credentials as being a terminated Govt. Servant in terms of

Govt. Order No. 461-JK(GAD) of 2025 dated **10.04.2025** on account of his involvement in **FIR No. 76 of 2022** registered by the Police Station Kokernag for alleged commission of offences under section 7/25 Indian Arms Act, 1959 and section 16/20/38 of Unlawful Activities (Prevention) Act, 1968 in which connection the petitioner was arrested on **07.05.2022** but getting bailed out by Special NIA Court on **13.04.2024**, as an undertrial.

07. The petitioner,s antecedents dating back to 2016 & 2017 in terms of his alleged involvement in **FIR No. 120/2016** of the Police Station Kokernag and **FIR No. 72/2017** again of Police Station Kokernag came to be highlighted in the grounds of detention on the basis whereof the petitioner was reckoned to be in continuing engagement in terror supportive activities and also actuated with a design to upset Shri Amarnath Ji Yatra. The petitioner was reckoned, on the basis of purported reliable human and electronic source information, being in continuing association with active militants and playing the role as a key facilitator for movement and shelter of the active militants.

08. In order to neutralize the petitioner's alleged state of activities, normal legal framework was opined by the

respondent No. 2 – District Magistrate, Anantnag to be insufficient to deter the petitioner from subversive tendencies and, thus, subjective satisfaction came to be drawn in ordering the preventive detention of the petitioner which came to be carried out into effect and in that state of preventive detention custody the petitioner came forward with the present writ petition.

09. In his writ petition, the petitioner has assailed his preventive detention on the basis of the grounds as set out in para 6 (a) to (q).

10. The petitioner has referred to the fact that his father and grandfather had fallen victims to the terrorists in the year 1996 and 2002 and, thus, the petitioner cannot be blemished in the manner as has come to be done by the District Police. The petitioner refers to his appointment on compassionate basis under SRO-43 before his termination on account of his implication in FIR/s as mentioned in the grounds of detention.

11. The petitioner has strongly agitated the aspect that in connection with a criminal case with respect to the latest **FIR No. 76/2022**, the grant of bail in his favour by a Special NIA Court is an aspect of serious importance and implication

pointing towards the fact that the petitioner was able to earn the bail on the basis of merits of his plea and that thereafter the petitioner has not breached any term and condition imposed upon him to enjoy continuation of bail in his favour.

12. The petitioner is said to have made a representation addressed to the respondent No. 2 – District Magistrate, Anantnag thereby seeking re-consideration of the decision of subjecting the petitioner to preventive detention custody. The petitioner is also said to have made a representation to the Principal Secretary to Govt., Home Department, J&K, sent through registered post mode and also against a written receipt dated **20.05.2025**. Said representation of the petitioner came to be considered and rejected about which aspect the petitioner was fully notified.

13. In the counter affidavit to the writ petition, the respondents in general and the respondent No. 2 – District Magistrate, Anantnag in particular, have come forward defending the imposition of preventive detention upon the petitioner on account of his alleged state of activities being prejudicial to the security of the State, warranting maximum preventive detention custody period for the petitioner to suffer out of which the petitioner by the time of hearing of

this petition had come to suffer eight months of preventive detention custody.

14. When this Court makes a reading of the grounds of detention which literally are reproduction of the contents of the dossier, a prominent fact comes out stating that the alleged adverse antecedents of the petitioner are relatable to **FIR No. 120 of 2016 & FIR No. 72 of 2017** on the basis whereof the petitioner was never reckoned to be unworthy of continuing in Govt. service and it is only the last **FIR No. 76 of 2022** by reference to which the petitioner is said to have suffered termination from service.

15. **FIR No. 120 of 2016 & FIR No. 72 of 2017** can, by no stretch of claim and authority, be reckoned to be the founding facts for consideration of subjecting the petitioner to suffer preventive detention and that leaves only **FIR No. 76 of 2022** as the reportable alleged activity of the petitioner.

16. By timeline of said FIR No.76 of 2022 preventive detention of the petitioner taking place in 2025 makes it a very distanced event and, thus, rules out even said adverse antecedent of the petitioner as a founding basis of the petitioner's preventive detention.

17. Thereafter, there is nothing in the name of grounds in the grounds of detention on the basis whereof the petitioner could be reckoned to be subjected to preventive detention custody except *ipse dixit* of the District Police Anantnag and supplemented by the same obliging mindset of the respondent No. 2 – District Magistrate, Anantnag.

18. Grant of bail in favour of the petitioner in a serious criminal case involving offences under Unlawful Activities (Prevention) Act, 1967 is not a fact to be dismissed at leisure from consideration.

19. If the petitioner, upon earning bail in 2024 from a regular criminal court, was still reckoned to be indulging in some objectionable activities prejudicial to the maintenance of security of the State, the first legal course of action at the end of the District Police ought to have been recourse to the Special NIA Court for seeking cancellation of the petitioner's bail but that option at no point of time ever presented itself before the District Police, Anantnag meaning thereby there was nothing at the disposal of the District Police, Anantnag to approach Special NIA Court to report against the petitioner for seeking cancellation of his bail but simultaneously, on the other hand, the preventive detention comes to visit the

petition as if punitive punishment in advance is being served to the petitioner not by the criminal court but by the District Police of Anantnag.

20. It is here where entire exercise of preventive detention of the petitioner went astray rendering the very exercise of jurisdiction illegal.

21. Accordingly, impugned detention order **No. 09/DMA/PSA/DET/2025** dated **26.04.2025** read with approval/confirmation/extension order whatsoever passed by the respondents No. 2 & 1 respectively are hereby quashed.

22. The petitioner is directed to be restored to his personal liberty by his release from the concerned Jail wherever he is kept detained, for which purpose the Superintendent of the concerned Jail to release the petitioner forthwith.

23. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

SRINAGAR
29.06.2026
Opinder

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