

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

Reserved on : 03.02.2026.

Pronounced on : 31.03.2026.

HCP No. 184/2025

**Yawar Majeed Laloo, Aged 32 years,
S/o Ab. Majid Laloo
R/o Frisal Tehsil Frisal, District Kulgam
Through his wife
Sumaira Nazir, Aged 34 years
W/o Yawar Majeed Laloo
R/o Frisal Tehsil Frisal, District Kulgam**

.....Petitioner

Through: Mr. S. A. Dar, Advocate

Vs

- 1. Union Territory of Jammu & Kashmir, Through Principal Secretary to Government, Home Department, J&K Civil Secretariat, Srinagar/Jammu.**
- 2. District Magistrate, Kulgam.**
- 3. Senior Superintendent of Police, Kulgam.**

..... Respondents

Through: Mr. Zahid Noor, GA

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

01. Heard learned counsel for both sides.

02. Perused the writ petition and the annexures therewith and also the counter affidavit filed in response.

03. The detention record produced also scanned thoroughly.

04. Upon filing of this writ petition on **04.06.2025** through his wife – Sumaira Nazir, the petitioner – Yawar Majeed Laloo, resident of Frisal, district Kulgam, came to ask for restoration of his personal liberty lost in view of his preventive detention custody effected in terms of preventive detention **Order No. 06/DMK/PSA/2025** dated **07.05.2025** passed by the respondent No. 2 – District Magistrate, Kulgam under the Jammu & Kashmir Public Safety Act, 1978.

05. It is the respondent No. 3 – Sr. Superintendent of Police (SSP), Kulgam who had reckoned the petitioner to be a person to suffer curtailment of his personal liberty in order to prevent him from acting in a manner prejudicial to the security of the State and therefore, submitted a dossier accompanying communication **No. Dpok/Psa-Cell/PSA-2025/1465-68** dated **01.05.2025** to the respondent No. 2 – District Magistrate, Kulgam.

06. In his dossier, the respondent No. 3 – Sr. Superintendent of Police (SSP), Kulgam came to highlight the petitioner's alleged state of activities as well as criminal involvement. In this regard, a criminal case relatable to **FIR No. 49/2018** under sections 307, 120-B RPC, 7/27 I.A. Act, 13(2), 16, 18, 19, 20, 38 & 39 Unlawful Activities (Prevention)

Act, 1967 of the Police Station Yaripora; **FIR No. 98/2020** under section 13 Unlawful Activities (Prevention) Act, 1967 read with section 506 RPC of Police Station Yaripora and lastly preventive security proceedings under sections 107/151 of the Code of Criminal Procedure, 1973 and section 126 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 on 23.04.2024, 14.05.2024, 11.05.2024 & 21.07.2024.

07. In reference to a criminal case related to FIR No. 49/2018, the petitioner is said to be on bail whereas with respect to FIR No. 92/2020, said criminal case is said to have been closed on **26.06.2023** against one of the deceased accused and before that the petitioner being on bail with effect from **17.05.2021**.

08. Acting upon said dossier, the respondent No. 2 – District Magistrate, Kulgam made a replica reproduction of the dossier by referring it as grounds of detention for purportedly drawing a subjective satisfaction therefrom that the petitioner deserves to suffer preventive detention order which, accordingly, came to be passed and the petitioner ordered to be detained and kept in the District Jail, Udhampur.

09. The petitioner came to be taken into custody on **08.05.2025** when ASI Mohd. Muzaffar, PID No. ARP-873209 of the Police Station Chanpora arrested the petitioner and handed over him to the Superintendent, District Jail, Udhampur.

10. The detention warrant executing officer – ASI Mohd. Muzaffar is said to have handed over all the documents being notice of the order and the entire material/relevant documents to the petitioner and reading and explaining to him in Urdu/Kashmiri language making the petitioner to fully understand the same and also apprising simultaneously about the right of the petitioner to make a representation to the Government against the detention order.

11. Co-inciding with the arrest of the petitioner and the execution report being documented, delivery of grounds of detention also came to be acknowledged from the petitioner against his written receipt in which also the petitioner refers to the fact that he was informed that he could make a representation to the Government against the detention order if he so advised.

12. At the time of passing of the detention order, the respondent No. 2 - District Magistrate, Kulgam by virtue of a

communication **No. DMK/JC/2025-26/124** dated **07.05.2025** addressed to the petitioner who was to suffer detention, apprised him about passing of a detention order against him and upon the arrest his right to make a representation to the District Magistrate, Kulgam and also to the Government against the detention order so passed whereas on the contrary the petitioner was left uninformed about his right to make a representation reserved vis-à-vis the respondent No. 2 – District Magistrate, Kulgam.

13. While the petitioner came to be detained on **08.05.2025**, on the other hand on very next date, the detention of the petitioner came to be approved by virtue of **Govt. Order No. Home/PBV/892 of 2025** dated **09.05.2025** and the case of the petitioner put forth for the opinion of the Advisory Board vide communication **No.Home/PB-V/294/2025** dated **09.05.2025** resulting in opinion report dated **27.05.2025** holding the petitioner's detention to be on sufficient grounds but reciting the fact that no representation has been made by the petitioner despite being informed of his right to make a representation against his detention to the detaining authority as also to the Government.

14. This recital in the Advisory Board's opinion runs contrary to the record as at no point of time the petitioner was ever informed of his right to make a representation to the respondent No. 2 – District Magistrate, Kulgam as being the detaining authority and, thus, it is a clear cut reflection of the fact that the Advisory Board was not fully provided with the documents in particular the execution report and receipt of grounds of detention, otherwise the Advisory Board would not have missed the reading of said factual flaw attending the arrest and detention of the petitioner and it is here where the entire preventive detention of the petitioner got vitiated with illegality, notwithstanding passing of **Govt. Order No. Home/PB-V/1178 of 2025** dated **10.06.2025** confirming the detention of the order for a period of six months at first instance followed by extension orders from time to time in terms whereof the petitioner's detention period is meant to last for a period of two years with effect from **08.05.2025**.

15. When this Court examines the detention record produced for the perusal of this Court, this Court comes across with another vitiating fact which is that the petitioner had addressed a representation dated **15.05.2025** to the respondent No. 2 - District Magistrate, Kulgam against receipt dated **22.05.2025** which at no point of time was ever

submitted before the Advisory Board which by that point of time was seized of the consideration of the file of the petitioner's preventive detention for its opinion sake which came to be tendered on **27.05.2025** and, thus, that was a deliberate omission on the part of the respondent No. 2 - District Magistrate, Kulgam to keep sitting on the representation of the petitioner and that is why the Advisory Board is on record to say that no representation seemed to have been made by the petitioner, as no such representation was lying on the material placed before the Board.

16. Another intriguing fact is forthcoming from the record that the Home Department, UT of Jammu & Kashmir by virtue of its communication **No. Home/PBV/294/2025 (7646764)** dated **27.05.2025** addressed to the Private Secretary to the Chairman, Advisory Board was purportedly forwarding the representation of the petitioner for consideration of the Advisory Board but same did not land on the table of the Advisory Board for its consideration for the reasons best known to the author of the communication i.e. Additional Secretary to Govt., Home Department, UT of J&K as well as to the Private Secretary to the Chairman, Advisory Board.

17. In the light of the aforesaid legal flaw attending the detention of the petitioner, this Court cannot lend its approval to the fact that the petitioner's preventive detention is resting on due procedural compliances and instead is afflicted with serious procedural flaw which renders the petitioner's continuing detention as illegal and is, accordingly, held so to warrant quashment.

18. This Court, therefore, quashes the preventive detention **Order No. 06/DMK/PSA/2025** dated **07.05.2025** read with approval/confirmation/extension order passed at the end of the Home Department, Govt. of Jammu & Kashmir as illegal and hereby orders restoration of the petitioner to his personal liberty by his release from the concerned jail wherever the petitioner is held up for which the Superintendent concerned to act in abidance.

19. ***Disposed of.***

20. Detention record to be returned back to the counsel representing the respondents.

(RAHUL BHARTI)
JUDGE

SRINAGAR
31.03.2026

Opinder

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