

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

Reserved on : 24.02.2026

Pronounced on : 01.04.2026.

HCP No. 196/2025

**Hilal Ahmad Khanday, Aged 36 years,
S/o Abdul Majeed Khanday,
R/o Hardpora Achabal, District Anantnag
Through his father
Abdul Majeed Khanday, Aged 61 years.**

.....Petitioner

sThrough: Mr. Wajid Haseeb, Advocate

Vs

- 1. UT of J&K through Principal Secretary, Home Department, J&K Govt., Civil Secretariat, Srinagar/ Jammu.**
- 2. District Magistrate, Anantnag.**
- 3. Sr. Superintendent of Police, Anantnag.**

..... Respondents

Through: None

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

01. Heard learned counsel for the petitioner.
02. Perused the writ pleadings as well as the counter affidavit along with the documents on record.
03. The petitioner – Hilal Ahmad Khanday, acting through his father – Abdul Majeed Khanday, through the medium of this writ petition filed on **10.06.2025** has come to seek restoration of his personal liberty which came to be

curtailed by the respondent No. 2 – District Magistrate, Anantnag by virtue of an **Order No. 20/DMA/PSA/DET/2025** dated **05.05.2025** under the Jammu & Kashmir Public Safety Act, 1978.

04. Thus, within one month and ten days of passing of the aforesaid detention order, the petitioner came forward with the institution of the present writ petition trusting this Court's constitutional authority to examine detention order under judicial review jurisdiction and restore his personal liberty.

05. The petitioner was detained on **11.05.2025** and was handed over to the Assistant Superintendent, District Jail Udhampur for lodgment and continues to be so confined and lodged therein.

06. The passing of detention **Order No. 20/DMA/PSA/DET/2025** dated **05.05.2025** by the respondent No. 2 – District Magistrate, Anantnag rested on an exercise at the end of Sr. Superintendent of Police (SSP), Anantnag who, by virtue of his letter **No. CS/71/2025/86480-85** dated **03.05.2025**, put forward a dossier alongwith other connected documents related to the petitioner thereby highlighting the alleged state of activities of

the petitioner found prejudicial to the security of State/ UT of J&K and, thus, sought the preventive detention of the petitioner.

07. By drawing from said dossier, the respondent No. 2 – District Magistrate, Anantnag came to set out the grounds of detention in writing wherefrom subjective satisfaction came to be drawn that a case is made out for ordering the preventive detention of the petitioner in order to prevent him from acting in a manner prejudicial to the security of State/UT of Jammu & Kashmir.

08. Para 1 of the dossier as well as of the grounds of detention refers to the birth place of the petitioner in native village Hardpora, Achabal in the year 1986 and the petitioner's schooling upto 9th class from High School Hakura, Dooru and then, abandoning his studies due to financial conditions of the family. Para 2 of the dossier and the grounds of detention then immediately refers to the petitioner's criminal antecedent relatable to an **FIR No. 88/2010** of the Police Station Kokernag for alleged commission of offences under sections 148, 149, 307, 332, 336 & 427 RPC. Next criminal antecedent cited is relatable to **FIR No. 50/2011** of the same Police Station for alleged commission of offence under section 7/25 of Arms Act. Rest

of eight paras of the dossier and grounds of detention are devoted to projection of the petitioner as a stone-pelter turned OGW of HMI outfit, a banned terrorist organization with petitioner being alleged of aiding terrorist activities within jurisdiction of Achabal area.

09. In the grounds of detention, the respondent No. 2 - District Magistrate, Anantnag declares the normal law to be insufficient to restrain the petitioner from indulging in activities prejudicial to the maintenance of security of State/ UT of J&K without citing as to in which further criminal cases the petitioner came to indulge to afford an occasion to the respondent No. 2 - District Magistrate, Anantnag that with respect to the petitioner normal law of land is insufficient and only law being sufficient to deal with the petitioner is the Jammu & Kashmir Public Safety Act, 1978 as if the petitioner was a repeat offender of law but without any single act of omission or commission finding place and mention in the grounds of detention for endorsing said assessment of the respondent No. 2 - District Magistrate, Anantnag.

10. Before filing the writ petition, the petitioner came to address a written representation dated **28.05.2025** to the respondent No. 2 - District Magistrate, Anantnag duly

received in the office whereby the petitioner sought revocation of his preventive detention on the grounds as are now forming the subject matter of challenge in the writ petition set out in para 3(i) to (xii).

11. Detention **Order No. 20/DMA/PSA/DET/2025** dated **05.05.2025** directed the petitioner's detention and confinement in District Jail, Poonch.

12. By virtue of a communication **No. DMA/JC/PSA/2025/121-26** dated **05.05.2025**, the respondent No. 2 – District Magistrate, Anantnag meant to apprise the petitioner about the fact of issuance of detention **Order No. 20/DMA/PSA/DET/2025** dated **05.05.2025** against him and his right to make a representation against his detention to the District Magistrate, Anantnag and to the Government.

13. Immediately following the issuance of detention order, the respondent No. 2 – District Magistrate, Anantnag came forward with a corrigendum **No. DMA/JC/PSA/2025/127-32** dated **09.05.2025** thereby instead of District Jail, Poonch referred in the detention order, District Jail, Udhampur was meant to be read meaning

thereby the petitioner was to be arrested and kept confined in District Jail, Udhampur.

14. By virtue of a **Govt. Order No.Home/PB-V/849 of 2025** dated **08.05.2025** approval came to be accorded to the detention **Order No. 20/DMA/PSA/DET/2025** dated **05.05.2025** of the respondent No. 2 – District Magistrate, Anantnag and the case stood forwarded to the Advisory Board for its opinion which came forth by declaring the preventive detention of the petitioner on justifiable grounds and, thus, by virtue of **Govt. Order No. Home/PB-V/1171 of 2025** dated **10.06.2025** the preventive detention of the petitioner came to be confirmed with period of detention also settled to last at the first instance and, therefore, the continued extensions have taken place keeping the petitioner in a state of preventive detention even at the date of hearing of this writ petition.

15. Counter affidavit to the writ petition came to be filed on **26.08.2025** wherein the preventive detention imposed upon the petitioner is being defended on the strength that all procedural compliances came to be carried out in the matter of passing of detention order and its service upon the petitioner and the detention being based on the material which came to be endorsed by the Advisory Board.

16. In the counter affidavit, an averment has been made that the petitioner's representation dated **28.05.2025** came to be considered and rejected by the Government and conveyed to the respondent No.2 – District Magistrate, Anantnag by virtue of communication **No. Home/PB-V/273/2025/(7645829)** dated **04.08.2025**. This timeline with respect to the consideration and disposal of the petitioner's representation dated **28.05.2025** is that two months came to be consumed in the matter of consideration of the petitioner's representation and announcing its fate and in this course of time the petitioner spent two months' of detention and custody.

17. The petitioner in his writ petition has not only claimed quashment of the detention order and restoration of his personal liberty but also a compensation of Rs. 2 lac for illegal detention of the petitioner.

18. Regarding the position of law with respect to the legality and validity of the detention orders under judicial review, this Court deems it appropriate to refer to the Hon'ble Supreme Court of India's judgment in the case of **"Ameena Begum Vs State of Telangana," 2023(9) SCC 587**. In this judgment, in para 28, the Hon'ble Supreme Court of India has culled out the tests under the lens of which judicial

review of the preventive detention order is meant to be examined. Para 28 reads as under:-

“28. In the circumstances of a given case, a Constitutional Court when called upon to test the legality of orders of preventive detention would be entitled to examine whether

28.1 The order is based on the requisite satisfaction, albeit subjective, of the detaining authority, for, the absence of such satisfaction as to the existence of a matter of fact or law, upon which validity of the exercise of the power is predicated, would be the sine qua non for the exercise of the power not being satisfied;

28.2 In reaching such requisite satisfaction, the detaining authority has applied its mind to all relevant circumstances and the same is not based on material extraneous to the scope and purpose of the statute;

28.3 Power has been exercised for achieving the purpose for which it has been conferred, or exercised for an improper purpose, not authorized by the statute, and is therefore ultra vires;

28.4 The detaining authority has acted independently or under the dictation of another body;

28.5 The detaining authority, by reason of self-created rules of policy or in any other manner not authorized by the governing statute, has disabled itself from applying its mind to the facts of each individual case;

28.6 The satisfaction of the detaining authority rests on materials which are of rationally probative value, and the detaining authority has given due regard to the matters as per the statutory mandate;

28.7 The satisfaction has been arrived at bearing in mind existence of a live and proximate link between the past conduct of a person and the imperative need to detain him or is based on material which is stale;

28.8 The ground(s) for reaching the requisite satisfaction is/are such which an individual, with some degree of rationality and prudence, would consider as connected with the fact and relevant to the subject-matter of the inquiry in respect whereof the satisfaction is to be reached;

28.9 The grounds on which the order of preventive detention rests are not vague but are precise, pertinent and relevant which, with sufficient clarity, inform the detainee the satisfaction for the detention,

giving him the opportunity to make a suitable representation; and

28.10 The timelines, as provided under the law, have been strictly adhered to.”

19. When this Court examines the present case what comes out rushing from the grounds of detention is the first and last reference relatable to objectionable antecedents of the petitioner being two FIRs of 2010 & 2011 without any further factual detailing from the end of the respondent No. 2 – District Magistrate, Anantnag or for that matter furnished by Sr. Superintendent of Police (SSP), Anantnag, as to the stage of said two criminal cases in the year 2025 when the petitioner was considered to be subjected to preventive detention custody.

20. If the Head of the District Police is not in a position to fetch true and full factual information with respect to two criminal cases against the petitioner registered by the Police Station within the district police of Anantnag then the very opinion and assessment of the Sr. Superintendent of Police (SSP), Anantnag in putting forth the petitioner as a case of preventive detention becomes seriously suspect and likewise the indifference at the end of the respondent No. 2 – District Magistrate, Anantnag in least bothering to distance himself from the stale mindset of the District Police and examine the dossier in correct perspective renders his subjective

satisfaction based on grounds of detention formulated equally suspect.

21. If the reference to said two FIRs is taken out of purview, then in the grounds of detention there is nothing in the name of factual reference to constitute a live material under the light of which the petitioner's personal liberty was reckoned to be prejudicial to the security of State/UT of J&K. Thus, the present case of the petitioner's preventive detention fails on that count.

22. In addition, two months' time taken by the Government in considering the petitioner's representation cannot qualify to be a reasonable time consumption in the matter of considering the petitioner's representation particularly when the dossier as well as the grounds of detention were having no material whatsoever to base the petitioner's preventive detention and, thus, consumption of two months' time in considering the representation of the petitioner by the Government at its Home Department's end was nothing but a namesake ritual to show that the consideration accorded to the representation of the petitioner was a studied one but the actuality is otherwise.

23. In the light of the aforesaid, this Court holds the preventive detention of the petitioner as illegal. Preventive detention **Order No. 20/DMA/PSA/DET/2025** dated **05.05.2025** passed by the respondent No. 2 – District Magistrate, Anantnag read with approval/confirmation/extension order passed by the Govt., UT of Jammu & Kashmir at its Home Department's end are held to be illegal and hereby quashed.

24. The petitioner is directed to be restored to his personal liberty. Superintendent of the concerned jail wherever the petitioner is being kept confined, be it inside UT of J&K or outside, is directed to release the petitioner forthwith.

25. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

SRINAGAR
01.04.2026
Opinder

Whether the judgment is speaking :	Yes
Whether the judgment is reportable :	Yes