

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

HCP No.218/2025

Reserved on: **04.06.2026**

Pronounced on: **06.06.2026**

Uploaded on: _____

Operative part or full judgment - **Full**

Mehraj ud din Bhat
S/O Late Mohammad Sidiq Bhat,
R/O Pandach 90 Ft. Road Srinagar.

...Petitioner(s)

Through: Adv. Wajid Md. Haseeb.

Vs.

1. Union Territory of J&K through
Principal Secretary to Govt.,
Home Department,
Civil Sectt. Srinagar.

2. District Magistrate,
Srinagar.

3. Sr. Superintendent of Police,
Srinagar.

...Respondent(s)

Through: Sr.AAG Mohsin Qadri with
Adv. Haaris Khan, AC.

CORAM: HON'BLE MR. JUSTICE M. A.CHOWDHARY, JUDGE

JUDGMENT

1. By way of the present petition filed under Article 226 of the Constitution of India, the petitioner has called in question the Detention Order No. **DMS/PSA/28/2025** dated **02.06.2025**

(‘impugned order’ for short) passed by respondent No.2-District Magistrate Srinagar under Section 8 of the Jammu and Kashmir Public Safety Act, 1978, whereby the petitioner has been placed under preventive detention with a view to prevent him from acting in any manner prejudicial to the security of the State.

2. The impugned detention order has been assailed mainly on the following grounds:-

- (i) that the detention order is founded upon stale, remote and irrelevant allegations dating back to the years 1989–1992;
- (ii) that after the petitioner was released in the year 1992, no specific prejudicial activity has been attributed to him and the grounds of detention contain only vague and generalized allegations;
- (iii) that the petitioner had submitted a representation dated 13.06.2025 which has not been considered;
- (iv) that the material relied upon by the detaining authority was not supplied to the detainee in a vernacular language, thereby depriving him of making an effective and meaningful representation as guaranteed under Article 22(5) of the Constitution.

3. Per contra, respondents in their counter affidavit, contended that the petitioner has been pursuing anti-national ideology since his childhood; that he initially associated himself with ‘JKLF’ outfit and thereafter maintained links with different secessionist and militant outfits culminating in association with ‘TRF’ organization;

that he has been instigating youth against the democratic system and acting in a manner prejudicial to the security of the State; that the petitioner was bound down on five occasions and his activities necessitated preventive detention.

4. Respondents further asserted that the detainee was an active conduit of banned outfit LeT and oftenly aided and abetted terror activities in an around Pandach area; that he was also involved in instigating and motivating the youth of Srinagar district and its adjoining areas so as to join terror ranks; that his activities had created enormous hardships for the public to lead a normal life; that he was providing logistic support to the terrorists and was indulging into activities prejudicial to the security of State.
5. Heard learned counsel for the parties, perused the detention record and considered the same.
6. Learned counsel for the petitioner while arguing the case submits that it seems that the detention order has been passed on mistaken identity as the petitioner has never associated himself with any person or organization as referred to in the grounds of detention; that the allegations made in the grounds of detention are vague, non-existent and no prudent man can make a representation against such allegation and passing of detention order on such ground is unjustified and unreasonable; that the detaining authority has shown its awareness that the detainee has been released way back in 1992, however, the detaining authority has not spelled out the compelling reasons to pass the detention order, once the petitioner was already released and exonerated more than thirty years ago; that the detention order

suffers from non-application of mind and deserves to be quashed.

7. On the other hand, learned counsel for the respondents supports the detention order and states that the petitioner was deeply influenced by radical ideology and came into contact with active terrorists and OGWs of banned organizations; that the petitioner was providing logistic support to the banned terrorist organizations operating in the area; that there is no vagueness or staleness in the grounds of detention; that the petitioner did not mend his ways despite being given numerous chances with the hope that he will live a normal life; that the petitioner continued to indulge in the activities which are prejudicial to the security of the State;; that the impugned detention order does not suffer from any legal infirmity at all.
8. The grounds of detention reveal that the foundation of the detention order rests substantially on allegations that the petitioner crossed over to Pakistan Occupied Kashmir (POK) in the year 1989 when he was admittedly a juvenile, received training there and returned in the year 1990. It is further alleged that he was arrested by BSF in the year 1991 and remained in their custody for about twenty months before being released in the year 1992.
9. Significantly, beyond the aforesaid events, which are more than three decades old, no concrete incident, FIR, overt act, recovery, meeting, communication or specific prejudicial activity has been attributed to the petitioner. The grounds merely state in general terms that the petitioner continues to harbor anti-national

ideology, influences youth and poses a threat to the security of the State.

10. Preventive detention is not intended to punish a person for past conduct but to prevent him from engaging in future prejudicial activities. There must exist a live and proximate link between the past conduct relied upon and the necessity of detention. The incidents relied upon by the detaining authority pertain to the years 1989, 1990, 1991 and 1992. The detention order has been passed in the year 2025, after a gap of approximately thirty-three years from the petitioner's release.
11. Respondents have failed to point out any specific prejudicial activity attributable to the petitioner during this enormous interregnum. The Supreme Court in **Rekha v. State of Tamil Nadu, (2011) 5 SCC 244**, observed that:

"Preventive detention is by nature repugnant to democratic ideas and an anathema to the rule of law. No person can be preventively detained on mere suspicion or ipse dixit."

12. The requirement of a live and proximate link between the alleged activities and the order of detention has repeatedly been emphasized by constitutional courts. Preventive detention founded on stale and remote incidents cannot be sustained. This Court has consistently held that stale incidents cannot furnish the basis of preventive detention unless supported by fresh and proximate material. In the present case, the foundational allegations are separated from the detention order by more than

three decades. Such remote events have lost all rational nexus with the purported object sought to be achieved through preventive detention.

- 13.** Perusal of the grounds of detention indicates that except referring to the petitioner's alleged ideology, the detaining authority has not specified any date of recent activity, any place where such activity occurred, names of persons allegedly influenced by the petitioner, any particular act of instigation or any recent criminal case or investigation.
- 14.** Allegations that the petitioner instigates youth, works against democratic institutions or supports anti-national ideology, are bald assertions unsupported by particulars. The constitutional requirement is that grounds of detention must be sufficiently definite to enable the petitioner to make an effective and meaningful representation. Vague and indefinite allegations render the subjective satisfaction of the detaining authority vulnerable. This Court has held that where allegations are vague and lacking material particulars, the detention order cannot survive judicial scrutiny. In the present case, the grounds are conspicuously deficient in particulars. The petitioner, thus, could not reasonably be expected to rebut such generalized accusations.
- 15.** The contention on behalf of the respondents that the petitioner was bound down on five occasions, however, he did not mend himself but mere existence of bound-down proceedings does not automatically justify preventive detention. Such proceedings may constitute relevant material only if accompanied by specific facts

demonstrating continuing and proximate prejudicial conduct. The respondents have not placed on record any material showing the nature of those proceedings, the allegations involved therein, or how they establish an imminent threat to the security of the State. In the absence of such particulars, reference to bound-down proceedings remains insufficient to bridge the gap of more than three decades.

16. The petitioner has specifically pleaded that although certain documents were stated to have been supplied to him, the same were furnished in English language. The respondents have not placed any material on record to demonstrate that the grounds of detention and the relied upon documents were translated into the vernacular language, understandable to the petitioner. The detention record in the present case does not reveal that translation versions of the dossier, statements, reports and other relied upon material was supplied to the petitioner in a language understood by him. In the absence of supply of translated copies of the relied upon documents, the constitutional safeguard guaranteed under Article 22(5) stands violated. Consequently, the petitioner was deprived of making an effective and meaningful representation against his detention.

17. The record further reveals that while relying heavily on alleged activities commencing from the petitioner's childhood, the detaining authority failed to address the crucial fact that the petitioner was a juvenile in the year 1989; that he had been arrested in 1991; that he remained in custody for approximately twenty months; that he was released in the year 1992; that no

concrete prejudicial act thereafter has been specified. These circumstances ought to have persuaded the detaining authority to examine whether any live and proximate material existed warranting preventive detention in the year 2025. The omission to do so reflects lack of real and independent application of mind.

18. For the foregoing reasons, this Court is satisfied that the detention order is founded predominantly on stale and remote incidents of the years 1989–1992; that no live and proximate link exists between those incidents and the detention order passed in the year 2025; that the other allegations contained in the grounds of detention are vague, generalized and bereft of material particulars; that the respondents have failed to establish supply of all relied upon documents to the petitioner in a vernacular language; and that the constitutional guarantees embodied in Article 22(5) of the Constitution stand violated.

19. Preventive detention, being an exceptional measure which authorizes deprivation of liberty without trial, requires strict adherence to constitutional and statutory safeguards, which in the present case seems to have become a casualty. Accordingly, the petition is **allowed** and the Detention Order No. **DMS/PSA/28/2025** dated **02.06.2025** passed by respondent No.2-District Magistrate, Srinagar under the Jammu and Kashmir Public Safety Act, 1978, is hereby, quashed.

20. Respondents are directed to release the petitioner/detenué forthwith from preventive custody provided he is not required in connection with any other case(s).

21. Scanned detention record be returned to learned counsel for respondents.

22. Disposed of, accordingly.

**(M. A. CHOWDHARY)
JUDGE**

Srinagar
06.06.2026
Muzammil. Q

Whether the order is reportable: Yes / No

