

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

Reserved on: 29.01.2026

Pronounced on: 05.02.2026

Uploaded on: 12.02.2026

Whether the operative part
or full judgment is pronounced: FULL

HCP NO. 237/2024

FAYAZ AHMAD WAR

...Petitioner(s)

Through: Mr. Wajid Mohhamad Haseeb, Advocate.



UT OF J&K AND ORS.

...Respondent(s)

Through: Mr. Mohsin Qadri, Senior AAG.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

05.02.2026

1. Through the medium of this writ petition under article 226 of the Constitution of India, preferred through his brother- Mudasir War, the petitioner- Fayaz Ahmad War is seeking quashment of preventive detention order passed by the respondent No.2- District Magistrate, Baramulla confirmed by respondent No.1- UT of J&K, whereby the petitioner has been subjected to suffer two

years' preventive detention custody with effect from which it has taken place on 15/04/2024 and as such the petitioner is now left only two and a half months of custody period to serve, but simultaneously expecting adjudication of his writ petition on merits hoping to have the detention quashed so as to earn an early relief from custody being suffered by him.

2. The petitioner is a resident of Village Warpora, Tehsil Dangerpora, Sopore, District Baramulla and his age is 36 years.
3. The Senior Superintendent of Police (SSP), Sopore by virtue of his communication No. **Pros/PSA/24/12984-86** dated **30/03/2024**, came to serve a dossier to the respondent No.2- District Magistrate, Baramulla with respect to the petitioner thereby notifying the alleged state of activities of the petitioner which was reckoned to be prejudicial to the security of the State warranting curtailment of fundamental right of the petitioner to personal liberty otherwise guaranteed under article 21 of the Constitution of India.

4. In his said dossier, the SSP, Sopore came to relate the petitioner in terms of his antecedents by reference to three FIRs which are FIR no. **156/2010, FIR No. 475/2010 and FIR No. 286/2023**, all registered with the Police Station, Sopore on the basis whereof the petitioner was referred to be a hard core OGW of LET outfit and on that pretext being involved strengthening militancy network in Sopore Area. The petitioner was also referred to be in touch with one Pak based terrorist simultaneously- Mr. Bilal Hamza Mir from whom the petitioner was said to be receiving all directions to promote terrorism in Sopore.
5. Taking into consideration the dossier so placed, the respondent No.2- District Magistrate, Baramulla came to formulate grounds of detention on the basis whereof deriving purported subjective satisfaction that the alleged reported state of activities of the petitioner made out a case of ordering his preventive detention under J&K Public Safety Act, 1978 in order to prevent him from

acting in a manner prejudicial to the security of the State.

6. With the grounds of detention, the respondent No.2- District Magistrate, Baramulla came to make replica reproduction of the contents of the dossier so submitted by SSP, Sopore without any shade of difference.
7. Having purportedly drawn subjective satisfaction on the basis of the grounds of detention so formulated, the respondent No.2- District Magistrate, Baramulla passed Detention Order No. **17/DMB/PSA/2024** dated **06/04/2024**, thereby ordering the arrest and detention of the petitioner under section 8(a) of Jammu and Kashmir Public Safety Act, 1978 and upon his arrest to be confined in the District Jail, Anantnag.
8. On the basis of the said detention order, the petitioner came to be taken in custody on **15/04/2024**, upon being arrested by SI- Gulzar Ahmad **PID No. EXK-921996** of DPL Sopore, who is said to have handed over a 17 Pages compilation to the petitioner besides informing him of the order of

detention, grounds of detention and other accompanying documents in the form of the compilation so provided. The person of the petitioner came to be delivered to the Superintendent of District Jail, Anantnag, which came to set start of preventive detention custody of the petitioner.

9. By virtue of a Government Order No. **Home/ PB-V/753/2024** dated 15/04/2024, the detention order of the petitioner so passed by the respondent No.2- District Magistrate, Baramulla came to be approved by the Government of J&K acting through its Home Department thereby complying with the mandate of section 8(4) of the Jammu and Kashmir Public Safety Act, 1978 and simultaneously forwarded the preventive detention case of the petitioner to the Advisory Board for its opinion about justifiability of the preventive detention of the petitioner.
10. The Advisory Board under Jammu and Kashmir Public Safety Act, 1978 by its Opinion Report dated **14/05/2024** on file No. Home **PB-V/206/2024**

came to hold the preventive detention custody of the petitioner based upon sufficient cause.

11. On the basis of the Advisory Board's opinion so received, the petitioner's preventive detention came to be lend confirmation in terms of Government Order No. Home **PB-V/1109/2024** dated **24/05/2024** thereby fixing the first phase of detention for a period of six months and place of confinement to be the District Jail, Anantnag.
12. Aggrieved of his preventive detention custody, the petitioner, acting through his brother made a representation dated 12/06/2024 addressed to the respondent No.2- District Magistrate, Baramulla received on 15/06/2024 against Receipt No. 12897 thereby seeking recall of the preventive detention slapped upon the petitioner.
13. Lastly, the petitioner finding himself left with no other remedy at his disposal came forward to institute the present writ petition filed through his brother on **01/07/2024** thereby posing a challenge to the preventive detention being slapped upon and suffered by him.

14. In the writ petition, the petitioner in paras 3 (i) to (xiii) has set out the grounds of challenge to the preventive detention of the petitioner.
15. During the pendency of the writ petition, the detention period of the petitioner came to be further extended and that is how the detention period related to the petitioner is supposed to last for two years' maximum detention period envisaged under, The Jammu and Kashmir Public Safety Act, 1978 with respect of detention effected by reference to security of State.
16. After the institution of the writ petition having taken place, the detention period of the petitioner originally fixed came to be extended in terms of Government Order No. **Home/ PB-V-/935 of 2024 dated 07/10/2024** and the extended period of detention was to last up to **14/04/2025**.
17. From the end of the respondents, a counter affidavit dated **18/10/2024** came to be submitted on **21/10/2024** wherein the preventive detention of the petitioner is being defended to be legal in the eyes of law with all procedural compliances having

been carried out to deprive the petitioner of his fundamental rights.

18. After the institution of the writ petition having taken place, the detention period of the petitioner originally fixed came to be extended in terms of Government Order No. **Home/ PB-V-/935 of 2024 dated 07/10/2024** and the extended period of detention was to last up to **14/04/2025**.
19. The detention record file produced for the perusal of this Court does not bear the latest/last detention period extension order passed by the Government of Jammu & Kashmir through its Home department. Thus, it is only known to the Home Department of Government of Jammu & Kashmir or for that matter the District Magistrate, Baramulla as to under which legal authority the preventive detention custody of the petitioner has suffered continuation beyond **14.04.2025**. If This Court as on dated **05/06/2025** of hearing of this Court being provided with detention record file is clueless to know vide which last/latest Government Order the detention record of the

petitioner has been extended then this Court can safely guess how the petitioner must have been kept equally clueless about extension of his detention custody accept reeling under an ignorant belief that his detention period must be continuing because of some order.

20. Therefore, when the detention record produced from the end of the respondents is not divulging or stating the government order on the basis of which the continuing detention of the petitioner has come to stay then this Court is well within its right to observe that the detention of the petitioner continuing is illegal and is, therefore, worth quashment.

21. Accordingly, the preventive detention of the petitioner is held to be illegal. The preventive detention order No. **17/DMB/PSA/2024** dated **06.04.2024** of the respondent No.2- District Magistrate, Baramulla, read with consequent approval and confirmation order/s are hereby quashed.

22. The petitioner is directed to be restored to his personal liberty and for that Superintendent of concerned jail to set the petitioner's person free.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

05.02.2026

"Opinder"

Whether the judgment is speaking : Yes / No

Whether the judgment is reportable : Yes / No

