

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

HCP 245/2025

Owais Altaf Bhat (Aged 23 Years)

S/O: Mohammad Altaf Bhat

**R/O: Padshahi Bagh, District
Srinagar.**

Through his father namely

Mohammad Altaf Bhat

...Petitioner(s)

Through: Mr. Asif Ali Dar, Advocate

Vs.

**1. Union Territory of J&K Through
Principal Secretary, Home
Department, Civil Secretariat,
Srinagar / Jammu.**

2. District Magistrate, Srinagar .

**3. Superintendent District Jail,
Poonch.**

**4. Superintendent, District Jail,
Gurugram, Harayana**

...Respondent(s)

Through: None

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER(ORAL)

09.02.2026

1. The petitioner, acting through his father, is approaching this Court for the second time with respect to the matter of preventive detention being second time slapped upon the petitioner in succession.

2. At the time of institution of the writ petition, the petitioner was aged 23 years.

3. By virtue of a detention Order No. DMS/PSA/153/2021 dated 17.03.2022 passed by the District Magistrate, Srinagar, acting on the asking of the District Police, Srinagar had first time ordered the detention of the petitioner by reference to his alleged reported activities being found prejudicial to the security of the State which had landed the petitioner to suffer preventive detention custody before he was able to get resorted his personal liberty back by the indulgence of this Court in terms of judgment dated 02.12.2023 passed in WP(Crl) No. 114/2022.

4. The setting aside of aforesaid detention of the petitioner, by virtue of this Court's judgment dated 02.12.2023, had taken on the basis of merits of the case which had constrained this Court to observe that the grounds of detention supporting the detention order were suffering the vice of vagueness bearing no mention of particulars of the places and the identity of the alleged terrorists by reference to whom the petitioner was alleged to be providing logistic support.

5. The restored personal liberty of the petitioner lasted only for a short duration when within a period of one year and four months, the District Police, Srinagar, acting through the Senior Superintendent of Police, Srinagar, again generated a dossier for the purpose of seeking detention of the petitioner from the District Magistrate, Srinagar.

6. The second time dossier submitted to the District Magistrate, Srinagar, factwise is as blank as the first one by repeat of the same text and context and, still, it was projected that the personal liberty of the petitioner was required to be curtailed in order to prevent him from acting in the activities as alleged in the dossier.

7. Drawing from the said dossier of the Senior Superintendent of Police, Srinagar, the respondent No. 2-District Magistrate, Srinagar, in purported application of mind on his part, generated grounds of detention, a reading whereof leaves this Court seriously concerned as to whether the right hand of the District Magistrate, Srinagar was knowing what the left hand was doing, as in the grounds of detention the alleged activities of the petitioner are reckoned to

be prejudicial to the maintenance of Public Order and to this effect this Court reproduces the so-called subjective satisfaction feeding grounds of detention and the same reads as under:-

“Whereas, the valley in general and District Srinagar in particular was under serious threat but owing to best efforts of UT machinery / administration and police, the situation which was created by the secessionists in the valley has been contained though it is still fragile and if any OGW like you gets liberty to roam freely at this crucial time when Administration as well as District Police Srinagar is pre-occupied and working round the clock for bringing normalcy within Kashmir Valley and particularly District Srinagar, will pose threat to the maintenance of peace.

Whereas, as per inputs provided by police in the recent past, terrorists have devised a strategy of recruiting terrorists / OGW's to create a surcharged and chaotic atmosphere, conducive for propagating the secessionist ideology. In order to carry out nefarious designs, terrorists have formed smaller groups in various areas of Valley especially city Srinagar,

Whereas, taking a wholesome view of the likely impact of your activities upon the overall scenario, in case you remain at large at this

point of time, it can be safely said that the impact will be adverse so-far as maintenance of public order is concerned. Keeping in view, the profile of your activities, coupled with above mentioned facts and circumstances, it can be safely inferred that you are a desperate character, hell bent to disrupt maintenance of public order.”

8. While the grounds of detention are referable to the maintenance of Public Order, the detention order which comes forth from the stroke of pen of the District Magistrate, Srinagar, bearing Order No. DMS/PSA/14/2025 dated 29.04.2025 is with respect to the alleged activities of the petitioner being prejudicial to the maintenance of security of the State, thereby directing the detention of the petitioner to last for a period of two years.

9. This Court is left to wonder that how even the Advisory Board has made the reading and study of the detention case of the petitioner submitted for its scrutiny to hold the detention of the petitioner justified for paving way for the Government to approve the detention of the petitioner and then prescribe the period of detention to last for the petitioner to suffer a stay behind bars.

10. The petitioner, in prime of his youth, upon becoming major, has spent more time in preventive detention custody than in a state of personal liberty.

11. An act of confirmation of a detention order, which is otherwise passed by a District Magistrate, also envisages that the Government is supposed to apply its own independent mind and that requires the reading of the case which is put up by the District Magistrate concerned with respect to which confirmation is solicited or is envisaged to take place, so as to validate the detention of a particular detainee.

12. In the context of the present case, the Government, through its Home Department, seems to have given its eye a slip in going through the very grounds of detention vis-à-vis the detention order otherwise it should have occurred at the very first instance to the Government that the District Magistrate, Srinagar has gone seriously wrong in reading the alleged activities of the petitioner as prejudicial to the maintenance of Public Order but directing the detention of the petitioner for preventing him from acting in a manner prejudicial to the security of the State.

13. Sheer non-seriousness and non-application of mind on the part of the District Magistrate, Srinagar as well as the Government of Union Territory of J&K through its Home Department is writ large with respect to the present detention case of the petitioner which vitiates the detention of the petitioner from its very inception.

14. In fact this Court has no hesitation to say that the fate of this writ petition should have been decided on the very first date of its presentation in view of the glaring contradiction so appearing from the record itself and for that this Court can do no more than express its apology to the petitioner as a citizen of this personal liberty reserving and respecting Nation that in guarding the personal liberty of the petitioner, this Court has come bit late in restoring him his most cherished fundamental right of personal liberty.

15. In view of the aforesaid, the writ petition is allowed. The detention Order No. DMS/PSA/14/2025 dated 29.04.2025 passed by the respondent No. 2-District Magistrate, Srinagar along with consequent approval/confirmation/extension orders relating to the petitioner are hereby quashed.

16. Superintendent of the concerned Jail detaining the petitioner is directed to stay free the petitioner forthwith upon receipt of the copy of this Judgment.

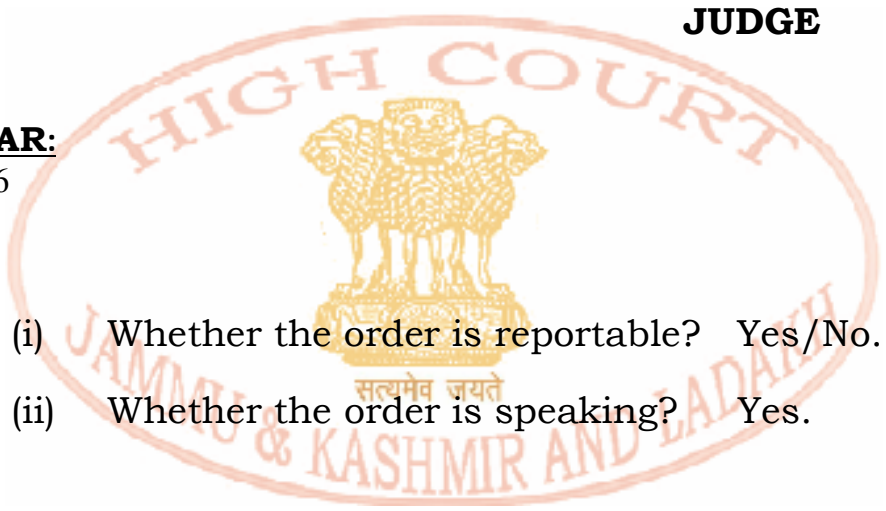
17. Disposed of.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

09.02.2026

"Mir Arif"

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- The seal of the Jammu & Kashmir High Court is a large, faint, orange-red oval stamp. It features the text "HIGH COURT" at the top and "JAMMU & KASHMIR AND LADAKH" at the bottom. In the center is the State Emblem of India, which consists of four Asiatic lions standing back to back on a pedestal. Below the emblem is the motto in Sanskrit: "सत्यमेव जयते".
- (i) Whether the order is reportable? Yes/No.
- (ii) Whether the order is speaking? Yes.