

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

Date of Pronouncement: 05.02.2026

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HCP No.255/2025

FHAD NAZIR FAZLI

...Petitioner/Appellant(s)

Through: Mr. Aushaq Hussain Shah, Advocate.

Vs.

UNION TERRITORY OF J&K AND ORS.

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

05.02.2026

(ORAL)

1. In the instant petition filed under Article 226 of the Constitution, petitioner herein seeks quashing of detention order No.24/DMA/PSA/DET/2025 dated 06.06.2025 (for short 'the impugned order') passed by respondent 2 (for short 'the detaining authority'), under and in terms of the provisions of J&K Public Safety Act, 1978.
2. The impugned order has been challenged on multiple grounds urged by the petitioner in the instant petition.
3. **Reply** to the petition has been filed by respondent 2 wherein the petition is being opposed *inter alia* on the premise that the impugned order has been passed validly and legally upon assuming satisfaction by the detaining authority of a reasonable probability of likelihood of the petitioner acting in a manner similar to his past acts being

prejudicial the security of the State and public order, while stating further that the detaining authority while detaining the petitioner followed all requisite statutory provisions as also the Constitutional mandate.

Heard counsel for the parties and perused the record.

4. Notwithstanding the multiple grounds urged by the petitioner in the petition, counsel for the petitioner confined the challenge to the solitary ground that the respondents did not consider the representation submitted by the petitioner against his detention thereby infringed the provisions of the Article 22(5) of the Constitution rendering the impugned order legally untenable.
5. On the contrary the counsel for the respondents would submit that upon receipt of the representation of the petitioner through his mother, same was considered and was found devoid of merit and consequently rejected in terms of communication dated 20.08.2025 being annexure-I, appended to the reply affidavit.
6. Perusal of the record available on file would reveal that a representation had been submitted through registered post on 28.06.2025 against the detention of the petitioner and indisputably the said representation stands considered and rejected by respondents in terms of communication dated 20.08.2025 after receipt of same on 14.07.2025 i.e. after a period of more than a month. Law is no more *res integra* and stands settled that representation submitted by a detainee against his detention has to be considered with due diligence without any delay and delayed disposal of the representation without

any sufficient reason would vitiate the order of detention and even the delay of 10 days has been held to be fatal to an order of detention.

7. Having regard to the aforesaid position obtaining in the matter, it cannot but be said that the respondents have delayed the disposal of representation without any lawful explanation neither emerging from the detention record or the reply affidavit filed and thus in the process observed in breach the mandate of Article 22(5) of the Constitution, rendering the impugned order legally invalid.

8. For the aforesaid reasons, instant petition succeeds, as a consequence whereof, the impugned order No.24/DMA/PSA/DET/2025 dated 06.06.2025 is quashed and respondents accordingly are directed to release the petitioner from the preventive detention forthwith provided he is not required in any other case.

9. Disposed of.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

05.02.2026

Ishaq

Whether the order is speaking ?

Yes/No

Whether approved for reporting ?

Yes/No