

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

HCP No. 257/2025

Reserved on: **04.06.2026**

Pronounced on: **06.06.2026**

Uploaded on: _____

Operative part or full judgment - **Full**

Aashiq Hussain Naikoo
S/O Mohd. Munawar Naikoo,
R/O Diver Anderbugh,
District Kupwara.

...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,
Kupwara.

3. Sr. Superintendent of Police,
Kupwara.

...Respondent(s)

Through: GA Faheem Nisar Shah.

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

JUDGMENT

- 1.** Through the medium of present petition, the petitioner seeks quashment of the Detention Order No. **15-DMK/PSA of 2025** dated **30.04.2025** passed by respondent No.2-District Magistrate Kupwara, whereby the petitioner/detenuue has been detained

under the provisions of the **Jammu and Kashmir Public Safety Act, 1978** (PSA), in order to prevent him from acting in any manner prejudicial to the security of the UT of J&K.

2. Grounds of challenge raised in the petition in brief are, that the allegations made in the grounds of detention have no nexus with the petitioner and have been fabricated by the police in order to justify its illegal action of detaining the petitioner; that the petitioner has been falsely implicated in case FIR No.09/2024 under Sections 7/2 Arms Act, 13, 18, 19, 20, 23, 39, 38 UA(P) Act registered at Police Station Lalpora; that the allegations are vague, non-existent and no prudent man can make a representation against such allegation, and passing of detention on such grounds is unjustified and unreasonable; that the last single alleged activity attributed to the detainee has taken place in March 2024 and thereafter no fresh activity has been attributed to the petitioner, as such, the allegations on which the detention order is based are stale and lack proximity; that the petitioner was already admitted to bail in the above mentioned case; that the detention order is unreasonable and unconstitutional for the reason that the detaining authority has itself mentioned in the grounds of detention that the petitioner deserve to be detained under preventive custody for maximum period and by suggesting the period of detention, the preventive detention has been rendered *ultra vires* to Article 22 of the Constitution of India; that the impugned detention order deserves to be quashed.
3. Respondents have filed their reply/counter affidavit wherein it is stated that there is a long history of petitioner's link in

transporting and providing food and shelter to the militants initially in Sopore and then in Kupwara; that the petitioner is involved in stone pelting and terrorist acts particularly providing support to the terrorists; that the field reports suggest that the petitioner did not bother to mend his ways and was involved in promoting subversive activities; that the petitioner is a category “A” OGW of proscribed organizations of LeT/TRF; that the detaining authority, after examining the dossier and connected material, arrived at the subjective satisfaction that the activities of the petitioner were prejudicial to the security of the Union Territory and that his preventive detention was necessary to prevent him from acting in a manner detrimental to the security of the State.

- 4.** Learned counsel for the petitioner, while making submissions, argued that the detention order is illegal as the petitioner/detenué had already been granted bail in case FIR No. 09/2024 registered under provisions of the Unlawful Activities (Prevention) Act; that the grounds of detention are vague; and that the whole material relied upon was not supplied to the petitioner; that the representation submitted by the petitioner was not considered, expeditiously.
- 5.** Per contra, learned counsel appearing for the respondents contends that the petitioner is “A” categorized Over Ground Worker (OGW) affiliated with the terrorist outfits LeT/TRF; that despite registration of FIR No. 09/2024 under the UAPA and despite having been enlarged on bail on 29.01.2025, the petitioner continued with activities prejudicial to security interests;

that the petitioner had earlier been bound down under Sections 127/170 BNSS but failed to mend his ways; that the entire material comprising about 80 leaves relied upon by the detaining authority was furnished to the petitioner and explained to him in the language understood by him; that the representation dated 12.07.2025 was duly considered and rejected by the Government on 01.09.2025 and its decision was communicated to the petitioner through the Superintendent of concerned Jail.

6. Heard learned counsel for the parties, perused the detention record and considered the same.

7. The scope of judicial review in matters of preventive detention is limited. The Court does not sit in appeal over the subjective satisfaction recorded by the detaining authority. Interference is warranted only where there is non-application of mind, absence of relevant material, violation of constitutional or statutory safeguards, or where the detention is otherwise shown to be legally unsustainable. Reference in this regard may be made to **Haradhan Saha v. State of West Bengal, (1975) 3 SCC 198;** **State of Gujarat v. Adam Kasam Bhaya, (1981) 4 SCC 216;** and **Subramanian v. State of Tamil Nadu, (2012) 4 SCC 699.**

8. Perusal of the detention record demonstrates that the detaining authority has taken note of the antecedents of the petitioner, his activities over a prolonged period, and his alleged association with terrorist networks. The grounds of detention disclose that the petitioner has remained involved in activities of a prejudicial nature since the year 2012 and has developed a radical ideology. The record further indicates that the petitioner was categorized

as an “A” category OGW of LeT/TRF and was providing support to anti-national elements.

9. The argument of learned counsel for the petitioner that the detention order could not have been passed because the petitioner had been granted bail in FIR No. 09/2024, is without merit. The law is well settled that preventive detention and prosecution in a criminal case operate in distinct fields. The fact that a person has been granted bail in a criminal case does not preclude the competent authority from passing a preventive detention order if the material before it reasonably indicates a likelihood of the detenu engaging in activities prejudicial to security or public order. The grounds of detention specifically refer to the petitioner having been enlarged on bail and the apprehension of his reverting to activities detrimental to security. The detaining authority has, thus, taken into consideration the relevant fact of grant of bail and has recorded reasons justifying preventive detention notwithstanding such release. Reliance in this regard may be placed upon **Kamarunnissa v. Union of India, (1991) 1 SCC 128**, wherein the Supreme Court held that detention of a person already on bail is permissible if there exists a real possibility of his engaging in prejudicial activities upon release. Similar principles were reiterated in **Union of India v. Paul Manickam, (2003) 8 SCC 342** and **Huidrom Konungjao Singh v. State of Manipur, (2012) 7 SCC 181**.

10. In the present case, the grounds of detention specifically refer to the petitioner's release on bail on 29.01.2025 in FIR No. 09/2024 under the provisions of UAPA and the apprehension that he

would continue his prejudicial activities, thereby satisfying the legal requirements laid down in the aforesaid judgments.

11. The record further reveals that prior preventive measures, including proceedings under Sections 127/170 BNSS, had been initiated against the petitioner. However, according to the material placed before the detaining authority, such measures failed to deter him from continuing with activities perceived as prejudicial to the security interests of the Union Territory. The detaining authority was, therefore, justified in forming the opinion that ordinary law had not proved sufficient to prevent the petitioner from pursuing such activities. In **Haradhan Saha v. State of West Bengal**, (1975) 3 SCC 198, the Supreme Court recognized that preventive detention is not a parallel punishment but a precautionary measure to prevent future conduct. The material before the detaining authority in the present case disclosed that proceedings under Sections 127/170 BNSS had failed to reform the petitioner, thereby justifying recourse to preventive detention.

12. The plea regarding non-supply of material is also not borne out from the record. The execution report and connected documents demonstrate that the petitioner was furnished the grounds of detention together with the material relied upon by the detaining authority, comprising approximately (80) pages. The petitioner acknowledged receipt of the documents. The material supplied was sufficient to enable him to make an effective representation against the detention order. Consequently, no infraction of Article 22(5) of the Constitution or the provisions of the PSA is made

out. The principle has been authoritatively laid down in **Icchu Devi Choraria v. Union of India, (1980) 4 SCC 531**; **Sophia Ghulam Mohd. Bham v. State of Maharashtra, (1999) 6 SCC 593**; and **Thahira Haris v. Government of Karnataka, (2009) 11 SCC 438**.

13. Since the detention record establishes supply of the complete relied-upon material comprising about 80 pages, the constitutional requirement stands fully complied with.

14. As regards the representation, the record shows that the petitioner submitted a representation on 12.07.2025, same was examined by the Government and came to be rejected on 01.09.2025. The decision was thereafter communicated to the petitioner through the Superintendent of concerned Jail. The record does not disclose any deliberate or unexplained lapse of such nature as would vitiate the detention. The constitutional requirement is consideration of the representation and communication of the decision, both of which stand satisfied in the present case.

15. It is also argued that the detention order is vitiated because the maximum period of detention has been mentioned therein. This contention too is untenable. It is well settled that a detention order is not rendered invalid merely because the permissible period of detention under the statute has been indicated, so long as the order discloses independent application of mind by the detaining authority. The Court is concerned with the existence of valid subjective satisfaction and compliance with procedural

safeguards, not with the mere form of expression employed in the detention order.

16. Upon an overall deliberation of the material on record, this Court finds that the detaining authority had before it, relevant and germane material, including the petitioner's alleged involvement in FIR No. 09/2024 under the provisions of UAPA, which was neither stale nor there was lack of live link; his release on bail; his categorization as an 'A' category OGW associated with LeT/TRF; his continuing activities despite preventive measures under the BNSS; and his long-standing involvement in subversive activities since 2012, for consideration. The subjective satisfaction recorded by the detaining authority cannot be said to be arbitrary, irrational, or based on extraneous considerations. No procedural violation, denial of constitutional safeguards, or other legal infirmity having been established, this Court finds no ground to interfere with the impugned detention order.

17. Accordingly, the writ petition is **dismissed**, and the Detention Order No. **15-DMK/PSA of 2025** dated **30.04.2025**, is upheld.

18. Detention record be returned to learned counsel for respondents.

(M. A. CHOWDHARY)
JUDGE

Srinagar
06.06.2026
Muzammil. Q

Whether the order is reportable: Yes / No