

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

HCP No. 277/2025

**Syed Amir Amin Bukhari, aged 23 years
S/o Mohammad Amin Bukhari
R/o Nowpra Bala Keegam, District Shopian
Through his sister
Syed Ulfat Ameen Bukhari
D/o Mohammad Amin Bukhari
R/o Nowpra Bala Keegam, District Shopian**

.....Petitioner

Through: Mr. Z. A. Qureshi, Sr. Advocate with
Ms. Rehana Fayaz, Advocate

Vs

- 1. Union Territory of Jammu and Kashmir through Commissioner / Secretary to Government, Home Department, Civil Secretariat, Srinagar/ Jammu.**
- 2. District Magistrate, Shopian.**
- 3. Senior Superintendent of Police, Shopian.**
- 4. Superintendent, Central Jail Kotbhalwal, Jammu.**

..... Respondents

Through: Mr. Bikramdeep Singh, Dy. AG

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGEMENT
(02.04.2026)**

01. Heard Mr. Z. A. Qureshi, learned Sr. Advocate assisted by Ms. Rehana Fayaz, Advocate for the petitioner and also Mr. Bikramdeep Singh, learned Dy. AG for the respondents.

02. Perused the writ petition and the annexures therewith and also the counter affidavit filed in response.

03. The petitioner – Syed Amir Amin Bukhari, acting through his sister – Syed Ulfat Ameen Bukhari, has come to petition this Court thereby seeking jurisdiction of this Court under article 226 of the Constitution of India for issuance of a writ of habeas corpus to get his personal liberty restored by quashment of a detention order which has landed the petitioner in preventive detention custody under the Jammu & Kashmir Public Safety Act, 1978.

04. The institution of the writ petition is of **14.08.2025**.

05. The respondent No. 2 – District Magistrate, Shopian by virtue of an order **No. 04/DMS/PSA of 2025** dated **28.04.2025** came to declare the petitioner being indulgent in state of activities prejudicial to security of the State (UT) and in order to prevent him from so acting further directed the petitioner's preventive detention and his confinement in the Central Jail Kot Bhalwal, Jammu.

06. The petitioner came to be taken into detention custody on **02.05.2025** when detention warrant was executed by the Inspector Showkat Ahmad, No. EXK-022645 of DPL, Shopian who handed over the person of the petitioner to the Superintendent, Central Jail Kot Bhalwal, Jammu and at that point of time purportedly delivering all the relevant

documents to the petitioner against proper receipt by reading over the contents of the detention warrant and the grounds of detention being part of 26 leaves compilation.

07. The notice of detention to the petitioner from the end of the respondent No. 2 – District Magistrate, Shopian is **No. DMS/PSA/2025/85-86** dated **28.04.2025** in terms whereof the petitioner was meant to be apprised that he has a right of representation against his detention to be made to the District Magistrate, Shopian as well as to the Government.

08. By virtue of **Govt. Order No. Home/PB-V/760 of 2025** dated **05.05.2025**, an approval to the detention order passed by the respondent No. 2 – District Magistrate, Shopian came to be granted and case forwarded to the Advisory Board for its opinion.

09. Acting through his said sister, the petitioner came to submit a written representation against his detention to the Home Department, UT of Jammu & Kashmir which came to be purportedly considered and rejected by the Government by virtue of a communication **No. Home/PB-V/178/2025/7644201** dated **31.07.2025** and the petitioner came to be apprised of rejection of his representation by a copy of communication from the Superintendent Central Jail Kot

Bhalwal, Jammu by virtue of a communication **No. MS/CJJKB-4721-22** dated **05.08.2025**.

10. A case for seeking preventive detention of the petitioner under the Jammu & Kashmir Public Safety Act, 1978 was processed and put forth from and at the end of Sr. Superintendent of Police (SSP), Shopian who, by virtue of his communication **No.PSA-Cell/SPN/19484** dated **27.04.2025**, submitted a dossier wherein the petitioner's alleged state of activities were brought into reference to support the plea for subjecting the petitioner to preventive detention custody by an order to said effect to be passed by the respondent No. 2 – District Magistrate, Shopian.

11. The detention so imposed by the petitioner in terms of detention order **No. 04/DMS/PSA of 2025** dated **28.04.2025** is second time detention as the petitioner earlier was also subjected to preventive detention custody by virtue of an **Order No. 35/DMS/PSA/2019** dated **10.08.2019** passed under the Jammu & Kashmir Public Safety Act, 1978 by the respondent No. 2 – District Magistrate, Shopian in order to prevent the petitioner from acting in a manner prejudicial to security of the State/Country.

12. At the relevant point of time when the petitioner was so subjected to first time preventive detention, the

antecedents of the petitioner which came to play role in subjecting the petitioner to preventive detention were his involvement in **FIR No. 106/2019** of the Police Station Shopian, **FIR No. 281/2018** of the Police Station Shopian & **FIR No. 88/2018** of Police Post Keegam.

13. The petitioner had come to challenge his first time preventive detention by way of writ petition **WP(Crl) No. 382/2019** which remained pending and by that time the petitioner came to suffer full two years' detention custody rendering the petition infructuous and disposed of in terms of an order dated **17.09.2021**.

14. The petitioner in his writ petition has come to question his second time preventive detention on the plea that the same is based on stale and repeat of the circumstances as were pressed into service at the time of subjecting the petitioner to first time preventive detention custody by virtue of an **Order No. 35/DMS/PSA/2019** dated **10.08.2019**.

15. The petitioner assails his detention on the grounds as set out in para 10 (a) to (h).

16. The petitioner has pleaded that the grounds of detention are not supported by relevant facts to enable the petitioner to make an effective representation as the same are

vague in nature and purely basis on the feed made by the Sr. Superintendent of Police (SSP), Shopian in his dossier. The petitioner is meaning to say that the dossier is nothing but fictionalization at the end of the Sr. Superintendent of Police (SSP), Shopian by relating the petitioner to unnamed terrorists and also the fact that it is the petitioner's conviction that routine law of land cannot be enforced against him. The petitioner submits that the very reference to **FIR No. 106/2019** even in this second time detention of the petitioner is reflective of the fact that there was nothing fresh and factual input at the end of the Sr. Superintendent of Police (SSP), Shopian to cite and quote against the petitioner for seeking second time preventive detention order.

17. In counter affidavit to the writ petition filed on **28.10.2025**, i.e., after two months from the date of institution of the writ petition on **14.082025**, the respondent No. 2 – District Magistrate, Shopian comes forth defending the issuance of detention order by him against the petitioner stating that the petitioner is a hard core OGW and facilitator of terrorist activities both LeT/HM in District Shopian with an assignment to keep an eye on the movement of security forces in Shopian area by the terrorists which he carried out from his native village.

18. The counter affidavit bears recital and reference to **FIR No. 106/2019** to highlight the petitioner's antecedents and, accordingly, his potential to pose a threat to security of the State. The counter affidavit bears reference to the judgments of the Hon'ble Supreme Court of India in the case of "Haradhan Saha Vs State of West Bengal" (1975) 3 SCC 198 & "Subharta Vs State of West Bengal" (1973)3 SCC 250. The counter affidavit also bears reference to the case of "Naresh Kumar Goyal Vs Union of India and others" (2005)8 SCC 276.

19. When this Court examines the case of the preventive detention of the petitioner in the totality of the facts and circumstances of the case, then this Court finds itself gathering an impression that the Sr. Superintendent of Police (SSP), Shopian as well as the District Magistrate, Shopian have pressed into service as a matter of practice a formula that once a detainee under the Jammu & Kashmir Public Safety Act, 1978 is going to be a repeat detainee under the same very Act and, therefore, for that repeat detention there is no requirement of any fresh material to come in existence and reference except falling back on the basis of first detention order and rephrasing the same in second time exercise and, thus, depriving the petitioner of his personal liberty as an exhibit of unhedged police power.

20. In the light of the facts and circumstances of this case, this Court finds that preventive detention custody imposed and inflicted upon the petitioner was unwarranted being based on vague and stale grounds without any material whatsoever which, therefore, renders the impugned order **No. 04/DMS/PSA of 2025** dated **28.04.2025** passed by the respondent No. 2 – District Magistrate, Shopian read with approval/confirmation/extension order/s whatsoever passed from the end of the Home Department, UT of Jammu & Kashmir are also illegal and are, hereby, quashed.

21. The petitioner is entitled to be restored to his personal liberty and is, accordingly, directed to be released forthwith from the concerned jail wherever the petitioner is being confined in detention and to said effect the Superintendent concerned to act in compliance.

22. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

SRINAGAR
02.04.2026
Opinder

Whether the judgment is speaking :	Yes / No
Whether the judgment is reportable :	Yes / No