

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(THROUGH VIRTUAL MODE)**

Case No: **LPA No. 220/2025**

*Reserved on : 12.02.2026
Pronounced on: 25.02.2026
n Uploaded on: 25.02.2026*

*Whether the operative part or
full Judgment is pronounced : **Full***

Mohammad Rafi Najar

.Petitioner(s)/Appellant(s)

Through: Mr. Mukhtar Ahmad Makroo, Advocate

Vs

UT of J&K and others (Home)

..... Respondent(s)...

Through: Mr. Illyas Nazir Laway, GA

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

JUDGMENT

PER OSWAL-J

1. The appellant was detained pursuant to Order No. 06/DMA/PSA/DET/2024 dated 01.04.2024, issued by the District Magistrate, Anantnag (respondent No. 2), in exercise of powers conferred under the Jammu & Kashmir Public Safety Act, 1978 (hereinafter referred to as "the Act"). Aggrieved by the said order of detention, the appellant challenged the same by filing HCP No.

132/2024 titled “*Mohd. Rafi Najar v. Union Territory of J&K and others*”. However, the challenge did not succeed, as the writ petition preferred by the appellant came to be dismissed by the learned writ Court vide judgment dated 22.08.2025 (hereinafter referred to as the “impugned judgment”).

2. Aggrieved of the impugned judgment, the appellant has challenged the same on the grounds that the learned Writ Court has failed to appreciate that the procedural safeguards envisaged under the Constitution of India, as well as those mandated under the Act, were not complied with by respondent No. 2. Appellant submits that the detention order is vitiated by the absence of a proximate nexus. There exists no subsisting link between the stale incidents alleged and the current necessity for preventive detention. It is further urged that the detention order is founded on vague, indefinite and non-specific allegations, thereby depriving the appellant of his valuable right to make an effective representation against the detention. The appellant has also contended that the learned writ court has failed to consider the vital aspect that the appellant had earlier been detained under the Public Safety Act vide Detention Order No. 70/DMA/PSA/DET/2022 dated 08.12.2022, which came to be revoked on 27.01.2023, i.e., after about two months. It is submitted that in the absence of any fresh or compelling material, the appellant could not have been detained again after more than a year, vide detention order dated 01.04.2024, on the basis of stale, non-existent and vague allegations.
3. Learned counsel for the appellant has reiterated the submissions as recorded above by this Court.

4. *Per contra*, Mr. Illyas Nazir Laway, learned counsel for the respondents has submitted that the order of detention has been passed on valid and cogent grounds, strictly in accordance with the provisions of the Act, but he fairly conceded that the appellant was not arrested prior to the issuance of order of detention. It is contended that all procedural safeguards were duly complied with and that the learned Writ Court has rightly appreciated the factual and legal aspects of the matter while dismissing the writ petition. Mr. Illyas Nazir Laway, learned G.A, has produced the detention record.
5. Heard learned counsel appearing for the parties and perused the record.
6. A perusal of the record reveals that the dossier submitted by respondent No. 3 to respondent No. 2, which formed the basis for the detention order dated 01.04.2024, was predicated on a patent factual error. Both the sponsoring agency and the detaining authority explicitly stated that there was a 'likelihood' of the appellant securing bail in FIR No. 219/2022. In para-3 of the writ petition, it was pleaded by the appellant that he was arrested on 03.04.2024 and this fact was never replied by respondents in their counter-affidavit. Rather in grounds of detention also, it is nowhere mentioned that appellant was arrested, though it is stated that there is every likelihood that the individual along with other accused will manage to get bail. It is conceded by the learned counsel for the appellant that the appellant was not in jail, when the order of detention came to be passed on 01.04.2024. This contradiction demonstrates a mechanical exercise of

power and a complete non-application of mind. Consequently, the subjective satisfaction of the detaining authority is vitiated, rendering the impugned order legally unsustainable.

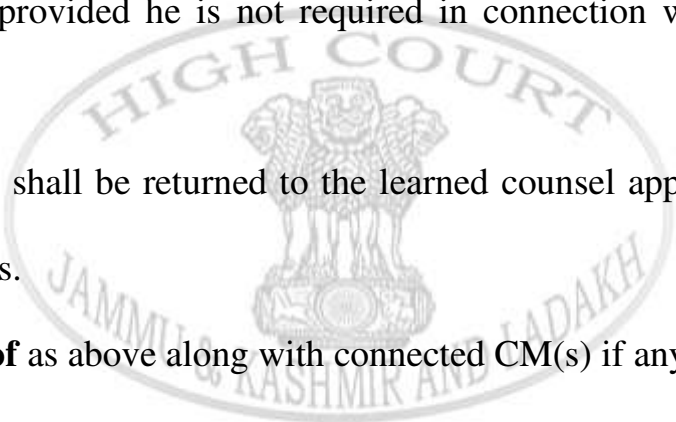
7. Furthermore, the appellant specifically pleaded before the learned Writ Court and reiterated before this Court as well that he was previously detained under an order dated 08.12.2022 predicated on FIR No. 160/2013. That prior order was subsequently revoked by the Government vide Order No. Home/PB-V 162 of 2023 dated 27.01.2023. Despite the appellant placing the revocation order on record, the respondents, in their counter-affidavit, failed to specifically deny or traverse these categorical averments. Under the settled principles of pleadings, an allegation not specifically denied is deemed to have been admitted. This suppression of the prior revocation by the detaining authority indicates a lack of bona fides and a failure to consider relevant material. It is, thus, evident that the sponsoring agency failed to place the complete and correct material before the detaining authority and, instead, presented inaccurate facts which appear to have weighed with the detaining authority while arriving at the requisite subjective satisfaction to detain the appellant. Such suppression and misrepresentation of material facts vitiate the detention order. On this ground as well, the order of detention cannot be sustained in law. In '**Pramod Singla versus Union of India**', 2023 INSC 344, the Hon'ble Apex court has observed as under:

46. At the sake of repetition, we find it important to state that in cases of preventive detention, every procedural irregularity, keeping in mind the principles of Article 21 and Article 22(5) of the Constitution of India, must be accrued in favour of the detainee. In the present case at hand, the appellant detainee herein has been supplied with illegible documents in a foreign language. It is also important to note that these are the

very same documents that the authorities have relied upon to detain the appellant herein.

(emphasis added)

8. We have minutely perused the judgment rendered by the learned Writ Court. A bare reading thereof reveals that the pivotal issues, as noticed and discussed by us hereinabove, have unfortunately escaped the consideration of the learned Writ Court, thereby rendering the impugned judgment unsustainable.
9. In view of the foregoing discussion, we are of the considered opinion that the judgment impugned in the present appeal is unsustainable in the eyes of law and is, accordingly, set aside. Resultantly, the order of detention bearing No. 06/DMA/PSA/DET/2024 dated 01.04.2024, issued by the District Magistrate, Anantnag (respondent No. 2), being legally untenable, is also set aside. The appellant shall be released forthwith, provided he is not required in connection with any other case.
10. The record shall be returned to the learned counsel appearing for the respondents.
11. **Disposed of** as above along with connected CM(s) if any,



(Rajnish Oswal)
Judge

(Arun Palli)
Chief Justice

Jammu
25.02.2026
Madan Verma-Secy

Whether order is speaking? Yes.
Whether order is reportable? No.