

Sr. No. 9
Regular

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

HCP No. 319/2024

Rafiq Ahmad Bhat

...Applicant(s)/Petitioner(s)

Through: Mr. Wajid Mohammad Haseeb, Advocate

VERSUS

UT of J&K And Ors.

...Respondent(s)

Through: Mr. Jahangir Dar, GA

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER
06.08.2026

1. The petitioner has come forward with challenge to his preventive detention custody effected under J&K Public Safety Act, 1978 by virtue of an **Order No. 27/DMP/PSA/24** dated **31.08.2024** passed by the respondent No. 2- the District Magistrate, Pulwama directing the petitioner's detention in order to prevent him from acting in a manner prejudicial to the security of the State.
2. Pursuant to said detention **Order No. 27/DMP/PSA/24** dated **31.08.2024** of the respondent No. 2- the District Magistrate, Pulwama, the petitioner came to be taken into preventive detention custody on **06.09.2024** and,

thus, came to be bound for two years' detention being the maximum in furtherance of approval/confirmation/extension orders passed by the Home Department, Government of J&K.

3. The institution of this writ petition by the petitioner had taken place on **26.09.2024** i.e., within a period of **20 days** from the date of his detention custody and, as such, during the pendency of the writ petition, the petitioner has almost served his entire detention but for last month in running.
4. The petitioner has not let his expectation from a constitutional court of seeking justice in his cause to die down and this is what this Court is responding to by adjudicating this writ petition.
5. The petitioner's detention was solicited by the Senior Superintendent of Police (SSP), Awantipora by **dossier No. Conf/PSA/2024/224-27** dated **27.08.2024** in which the petitioner came to be profiled as a person engaged in subversive activities relatable to **FIR No. 83/2018** of Police Station, Khrew which subjected him to undergo

trial, then **FIR No. 44/2021** of Police Station, Pampore in which also he is said to be undertrial, but, in both the cases the petitioner came to be bailed out by the regular criminal court of law being seized of the respective trials.

6. The concern of the Senior Superintendent of Police (SSP), Awantipora as well as of the District Magistrate, Pulwama was that after his release on bail, the petitioner was expected to reform himself but he proved otherwise, as per credible information, by continuing with his anti-national activities and nefarious designs to pollute the juvenile minds of the youngsters of the area, drawing them towards terrorism and influencing youth to adopt path of terrorism. The petitioner was aligned with "TRF".

7. In the name of facts, after his release on bail, neither the dossier nor the grounds of detention carry any whisper of reference except sweeping profile of the petitioner against which the petitioner by no stretch of imagination or realism

could be expected to make any effective representation to come in his defense.

8. Aggrieved of his detention, the petitioner acting through his father Ghulam Ahmad Bhat, had submitted a written representation to the respondent No. 2- the District Magistrate, Pulwama on **14.09.2024** against receipt from the office of the District Magistrate, Pulwama bearing pleas that the petitioner's right to make an effective representation has been seriously prejudiced by lack of material on record which purportedly weighed with the Senior Superintendent of Police (SSP), Awantipora as well as the District Magistrate, Pulwama to consider and order the petitioner's detention under J&K Public Safety Act, 1978.

9. Despite having received from the petitioner's end the representation dated **14.09.2024**, the same remained on the table of the District Magistrate, Pulwama without being forwarded either to the Government or to the Advisory Board, as a result whereof, when the Advisory Board came up with

its opinion report dated **26.09.2024** i.e., **12 days** from the date of submission of representation by the petitioner, the Advisory Board was coming up with a recital in its opinion report that no representation from the end of the petitioner came to be made meaning thereby the Advisory Board was kept uninformed about the actual status of the petitioner side's representation having been made to the District Magistrate, Pulwama and that is a fundamental flaw in the very detention of the petitioner which renders his detention not accordance with law warranting it to be set aside on technical ground and, thus, the District Magistrate Pulwama's Detention **Order No. 27/DMP/PSA/24** dated **31.08.2024** read with approval/confirmation/extension order/s from the Home Department, Government of UT of J&K are quashed.

10. The petitioner be restored to his personal liberty forthwith by his release from the Jail wherever he is being kept detained. Superintendent Jail to abide with this direction.

11. Detention record produced by Mr. Jahangir Dar,
learned Government Advocate is returned.

12. **Disposed of.**

(RAHUL BHARTI)
JUDGE

SRINAGAR

06.08.2026

Akshil Dev

