

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

Date of Pronouncement: 05.02.2026

Uploaded on: 13.02.2026

HCP No.348/2024

SYED AMIR NABI FAROOQI ...Petitioner/Appellant(s)

Through: M/s. Zahid Hussain, Naveed Bukhtiyar, Aqib Sofi, Advocates.

**Vs.**

UNION TERRITORY OF J&K AND ORS. ...Respondent(s)

Through: Mr. Furqan Yaqoob Sofi, GA.

**CORAM:**

**HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE**

**ORDER**

05.02.2026

(ORAL)

1. In the instant petition petitioner has challenged order No. No.42/DMP/PSA/24 dated 13.09.2024 (for short 'the impugned order') passed by respondent 2 (for short 'the detaining authority').
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 respondents wherein the petition is being opposed *inter alia* on the premise that petitioner was detained under the preventive detention on account of his being an Over Ground Worker (OGW) providing shelter and other logistic support to the terrorists and that the petitioner was even involved in case FIR No.40/2020 registered with Police Station Rajpora in which FIR the petitioner came to be released on bail by the court of law and yet the petitioner continued with his subversive activities and was also

bound down on 12.05.2024 under Section 107 and 151 CrPC and subsequently released on execution of bond by the Executive Magistrate 1<sup>st</sup> Class Rajpora and owing to the said past activities the detention of the petitioner was found to be warranted and consequently the petitioner was detained in terms of the order under challenge for his activities being prejudicial to the security of the State.

**Heard counsel for the parties and perused the record.**

4. counsel for the petitioner while making his submissions in the first instance would contend that the detaining authority wrongly detained the petitioner under the preventive detention as a short cut measure without taking recourse to the cancellation of bail granted to the petitioner in case the petitioner have had continued his subversive activities.
5. Counsel for the petitioner would further submit that even otherwise also the alleged activities attributed to the petitioner post grant of bail by the competent court of law are vague and ambiguous without spelling out the details of said alleged activities having rendered the petitioner incapable of making an effective representation against his detention.
6. It is lastly contended by counsel for the petitioner that the detaining authority while detaining the petitioner reflected complete non-application of mind, in that, the detaining authority in the grounds of detention referred the grounds of detention as “dossier”.

7. On the contrary counsel for the respondents while opposing the submissions of counsel for the petitioner reiterated the stand taken by the respondents in the reply affidavit filed to the petition and would insist that the detention order has been passed validly and legally thus, would seek dismissal of the petition.

8. Insofar as the aforesaid first plea of counsel for the petitioner is concerned, nothing is forthcoming from the record available on the file including the reply affidavit filed by respondents inasmuch as the detention record produced by counsel for the respondents that any efforts have had been made by the respondents for seeking cancellation of the bail granted to the petitioner in the FIR No.40/2020 on the ground that the petitioner upon his release on bail therein the said FIR continued with subversive activities and indeed have seemingly taken recourse to preventive detention as a substitute. Law is no more *res integra* that the preventive detention cannot be invoked as a substitute for proceedings against an accused found to have committed serious offence concerning the Security of the State or Maintenance of Public Order.

9. Insofar as the aforesaid next ground urged by counsel for the petitioner is concerned, a closer examination of the grounds of detention as also the detention record produced by counsel for the respondents manifestly tends to show that no details of alleged activities attributed to the petitioner post grant of bail have been detailed out, be it, the particulars of the terrorists, place, date and time, the petitioner has been involved in the said alleged activities thus, it can safely be said that grounds of detention drawn and framed by the

detaining authority are vague having rendered the petitioner incapable of making an effective representation.

**10.** Insofar as the aforesaid last plea of counsel for the petitioner is concerned, the last para of grounds of detention indisputably reveal that the detaining authority have referred the grounds of detention as “dossier” signifying complete non-application of mind of detaining authority.

**11.** For what has been observed, considered and analyzed hereinabove, impugned order does not sustain in law thus, the impugned order No. No.42/DMP/PSA/24 dated 13.09.2024, is quashed with a direction to respondents to release the petitioner forthwith from preventive detention unless he is not required in any other case.

**12.** The detention record produced by counsel for the respondents is returned back in the open Court.

**13.** Disposed of.

**(JAVED IQBAL WANI)  
JUDGE**

**SRINAGAR**

05.02.2026

*Ishaq*

*Whether the order is speaking ?*

*Yes/No*

*Whether approved for reporting ?*

*Yes/No*