

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

Reserved on : 06.03.2026.

Pronounced on : 01.04.2026.

HCP No. 313/2025

**Zaid Rafiq Rather, Age 20 years
S/o Mohammad Rafeeq Rather
R/o Zaffron Colny Ichnambal
Through his father Mohammad Rafeeq Rather**

.....Petitioner

Through: Ms. Nida Nazir, Advocate

Vs

- 1. Union Territory of Jammu & Kashmir and Ladakh
through Commissioner/Secretary Home, Civil Secretariat,
Srinagar/ Jammu.**
- 2. District Magistrate, Srinagar.**
- 3. Superintendent, District Jail Poonch.**

..... Respondents

Through: Ms. Maha Majeed, Assisting Counsel vice
Mr. Mohsin S. Qadri, Sr. AAG

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT**

01. Heard learned counsel for both sides.

02. Perused the writ record and the documents
therewith.

03. The petitioner – Zaid Rafiq Rather acting through
his father – Mohd. Rafiq Rather came to petition this Court
with institution of the present writ petition on **27.10.2025**
through the medium of which he is intending to seek
restoration of his personal liberty lost on account of his

preventive detention custody ordered by the respondent No. 2 – District Magistrate, Srinagar under the Jammu & Kashmir Public Safety Act, 1978.

04. The case for preventive detention of the petitioner came to be processed and forwarded from the end of Sr. Superintendent of Police (SSP), Srinagar when by virtue of a letter **No.LGL/Det/-PSA/2025/26538-41** dated **19.08.2025** the alleged state of activities relatable to the petitioner reckoned by the District Police, Srinagar being prejudicial to the security of the State and, thus, seeking his preventive detention under the Jammu & Kashmir Public Safety Act, 1978.

05. In his five-page dossier, the Sr. Superintendent of Police (SSP), Srinagar came to address the petitioner as a 12th class pass out from Muslim Educational Institute Parimpora and pursuing his B. Com. in Islamia College, Srinagar. The petitioner is referred to be deeply influenced by radical ideology coming in contact with active terrorists and OGW's who motivated him to work with them as OGW of LeT/TRF outfit for providing logistic, financial and operational support etc to the terrorists of LeT/TRF, on the basis of which motivation the petitioner started to provide all logistic support and shelter to many terrorists and also sharing all

sensitive information regarding movement of police and security forces in the area of Qamarwari and its adjacent area, thus, becoming a staunch OGW of Zaffron Colony, Ichanambal area Srinagar and its adjacent areas.

06. The dossier further refers to **FIR No. 127/2022** under sections 13/18/20/38 & 39 Unlawful Activities (Prevention) Act and section 7/25 IA Act registered by the Police Station Parimpora in which the petitioner is said to have been arrested for alleged commission of offence relatable to an incident of **28.05.2022** related to uploading posts on social media and doing propaganda to threaten minority and non-local employees, mostly Kashmiri Pandits, police personnels and others.

07. A dossier refers to the names of Basit Ahmad Dar, Mohd. Lateef Rather, Moomin Gulzar, Saqib Ahmad and Adil Ahmad Parray being the conspirators in organizing the alleged activities booked under FIR No. 127/2022. The dossier refers that the petitioner stands bailed out in said FIR whereupon he has been counseled to restrain himself from such activities but to of no avail. Beat-book reports of **23.06.2025, 08.07.2025 & 25.07.2025** are said to have diarized and documented the petitioner's involvement in anti-national activities in discreet manner on the basis of which

the District Police was led to reckon that if the petitioner is given liberty to move freely he may indulge in unlawful/anti-national activities and that the normal law is inadequate against the petitioner to deter him from unlawful/anti-national activities and, therefore, warrant his detention under the J&K Public Safety Act, 1978.

08. In the final part of dossier issuance of detention warrant under the J&K Public Safety Act, 1978 has been solicited to prevent **her** from acting in any manner prejudicial to the security of the State.

09. The very fact that the dossier is referable to the petitioner who is a man but being addressed by reference to pronoun **“her”** is a pointer to the fact that writing of the dossier hardly underwent any correction or final reading at the end of the Sr. Superintendent of Police (SSP), District Srinagar.

10. Literally read then, the preventive detention of a woman has been solicited by the Sr. Superintendent of Police (SSP), District Srinagar from the respondent No. 2 – District Magistrate, Srinagar.

11. Acting upon said dossier, the respondent No. 2 – District Magistrate, Srinagar purportedly framed the grounds

of detention by literally borrowing the dossier text without any shade of tone and tenor difference and on that basis purportedly drawing a subjective satisfaction to subject the petitioner to suffer preventive detention so as to put an end to the alleged activities of the petitioner reckoned being prejudicial to the security of the State.

12. By virtue of a communication **No. DMS/PSA/Jud/231-234/2025** dated **12.09.2025** addressed to the petitioner, the respondent No. 2 – District Magistrate, Srinagar meant to apprise the petitioner about passing of detention order against him and his right to make a representation against the detention to the Govt., Home Department and also the detaining authority i.e. the District Magistrate, Srinagar.

13. The respondent No. 2 – District Magistrate, Srinagar, thus, came forward with issuance of preventive detention **Order No. DMS/PSA/38/2025** dated **12.09.2025**, i.e., after a gap of almost 22 days thereby ordering the preventive detention of the petitioner to be kept in District Jail, Udampur so as to prevent the petitioner from acting in a manner prejudicial to the security of the State.

14. On the basis of said detention order, the petitioner had come to be taken into custody on **14.09.2025** and

delivered to the Superintendent, District Jail Udhampur for confinement in connection with which it is stated that all procedural compliances came to be carried out. The execution of the detention warrant had taken place through **PSI Harsh Sharma, PID No. 245990/GEC, P/s Panthachowk Srinagar** who is said to have handed over to the petitioner a compilation of 51 leaves besides explaining the contents of grounds by reading over in English and explaining in Urdu/Kashmiri language enabling the petitioner to understand it fully. **The petitioner is said to have been apprised of his right to make a representation to the Govt. against the detention order if so desired by him.**

15. In his execution report, said Executing Officer - PSI Harsh Sharma, P/s Panthachowk Srinagar is on record to state that he apprised the petitioner about the report to make a representation to Govt.

16. Thus, both in the execution report and receipt of grounds of detention, the fact is found missing a mention that the petitioner was apprised of his corresponding right to make a representation against his detention to the detention order making authority which being the respondent No. 2 – District Magistrate, Srinagar

17. Counter affidavit to the writ petition came to be filed from the end of the respondent No. 2 – District Magistrate, Srinagar on **18.12.2025** wherein justifying the preventive detention of the petitioner on the strength of the grounds of detention and the dossier.

18. In his writ petition, the petitioner has assailed his detention on number of grounds by saying that the copies of beat-book reports dated **23.06.2025**, **08.07.2025** & **25.07.2025** were never provided to him for enabling him to make a representation.

19. Although the petitioner in his writ petition has not referred any fact of having made any representation against his preventive detention but in the counter affidavit it has come to be stated by the respondent No. 2 – District Magistrate, Srinagar that vide communication dated **14.10.2025** representation submitted was considered and found by the Govt. to be without any merit and rejected vide communication dated **14.10.2025** about which the family/ relatives of the petitioner stood communicated as to fact of rejection of the petitioner's representation.

20. By virtue of Govt. **Order No. Home/PB-V/1724 of 2025** dated **17.09.2025**, detention **Order No. DMS/PSA/38/2025** dated **12.09.2025** came to be approved and the

case forwarded for opinion of the Advisory Board which came to be tendered vide opinion report dated **08.10.2025** holding the preventive detention of the petitioner to be resting on justifiable grounds which paved the way for the issuance of Govt. **Order No. Home/PB-V/1876 of 2025** dated **14.10.2025** thereby ordering preventive detention of the petitioner to last for a period of six months at first instance with effect from **14.09.2025** till **13.03.2026** and place of confinement to be District Jail, Udhampur.

21. The petitioner, from his end, had made representation only to the Advisory Board wherein he came to state that being a student he had nothing to do with the alleged activities attributed to him and the the report submitted by the Police Department was baseless and, therefore, solicited a personal hearing.

22. The Advisory Board in its Opinion Report has stated that it came to accord personal hearing to the petitioner and also considered his representation but still felt not convinced to opine that the preventive detention of the petitioner was unjustified.

23. The petitioner is said to have been produced before said Advisory Board through virtual mode on **08.10.2025** as is confirmed by the Superintendent District Jail, Udhampur

in his communication **No. DJU/DS/25/12071-72** dated **08.10.2025** addressed to the Additional Secretary to Govt., Home Department, Govt. of Jammu & Kashmir.

24. The Home Department, Govt. of Jammu & Kashmir acting through its Additional Secretary to Govt., by virtue of a communication **No. Home/PB-V/498/2025/7683149** dated **14.10.2025** addressed to the Respondent No. 2 – District Magistrate, Srinagar apprised the fact of consideration of the petitioner's representation being found to be without merit. The petitioner is said to have been apprised on **15.10.2025** about the fact of disposal of his representation as acknowledged by his signature.

25. Interestingly, the Advisory Board in its opinion dated **08.10.2025** has come forward with a recital in para 2 that the petitioner as a detainee stood informed of his right to make a representation against his detention to the detaining authority as well as to the Govt.

26. This recital of the Advisory Board in its opinion report is counter to the execution report tendered by PSI Harish Sharma while taking the petitioner into detention and delivering him with 51 leaves compilation of detention order and the documents therewith but only apprising the petitioner about his right to make a representation to the

Govt. and omitting reference to his right of representation available at his disposal to the detention order making authority.

27. So much so, even the Superintendent District Jail, Udhampur in his communication **No. DJU/DS/25/9413-23** dated **14.09.2025** addressed to the Special Secretary to Govt., Home Department, Govt. of Jammu & Kashmir is on record stating that the petitioner has been informed about his right of making a representation against his detention to the Govt. against his detention order.

28. Thus, at every relevant point of time, the petitioner's constitutional right of making a representation against his detention to the detention order making authority came to suffer deletion, but wherefrom the Advisory Board came forward with a reference and recital in its opinion report dated **08.10.2025** that the petitioner was informed about his right of making a representation against his detention to the detaining authority as also to the Govt., is a musing link on entire detention record.

29. Thus, it is here where this Court finds the preventive detention of the petitioner seriously flawed and holds the same illegal.

30. Accordingly, preventive detention **Order No. DMS/PSA/38/2025** dated **12.09.2025** read with approval/confirmation/extension order if any passed at the end of the Home Department, Govt. of Jammu & Kashmir as illegal and hereby quashed and the petitioner is directed to be restored to his personal liberty by his release from the concerned Jail wherever the petitioner is kept in detention. The concerned Superintendent Jail is directed to release the petitioner forthwith.

31. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

SRINAGAR
01.04.2026
“Opinder”

Whether the judgment is speaking : **Yes**