

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

Reserved on: 07.07.2026

Pronounced on: 17.07.2026

Uploaded on: 17.07.2025

*Whether the operative part or
full judgment is pronounced:*

Full

HCP No.330/2025

MOHAMMAD SHAFI NAIKOO

...PETITIONER(S)/APPELLANT(S)

Through: - Ms. Sabrina Fayaz, Advocate.

Vs.

UT OF J&K & ANOTHER

...RESPONDENT(S)

Through: - Mr. Faheem Nissar Shah, GA.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) Through the medium of present petition, the petitioner has challenged detention order bearing No.22-DMK/PSA of 2025 dated 14.07.2025, issued by District Magistrate, Kupwara, whereby the detenue, namely, **Mohammad Shafi Naikoo**, has been placed under preventive detention so as to prevent him from indulging in the activities which are detrimental to the security of the State.

2) It has been contended that the that there has been non-application of mind on the part of the detaining authority as the said authority has acted mechanically while issuing the impugned order of detention by relying solely upon FIR No.09/2024, in which the petitioner was already discharged by

the concerned court. It has been contended that the detention of the petitioner constitutes an unjustified restriction on his fundamental right to life and personal liberty guaranteed under Article 22 of the Constitution. It has been averred that the allegations mentioned in the grounds of detention have no nexus with the detenue and that the same have been fabricated by the police in order to justify its illegal action of detaining the detenue. It has been contended that grounds of detention are vague and non-existent, on the basis of which no prudent man can make an effective representation. It has been further contended that there were no compelling reasons for the detaining authority to issue the impugned order of detention. It has also been contended that the procedural safeguards have not been complied with in the instant case, inasmuch as whole of the material which formed basis of the impugned detention order has not been supplied to the petitioner and that the representation filed by the petitioner against his detention has not been considered well in time.

3) The respondents, in their counter affidavit, have contended that the impugned detention order has been passed after proper application of mind. It has been further contended that none of the rights of the petitioner has been violated by the respondents. It has been averred that the petitioner was involved in the activities which are detrimental to the security of the State and the same has been confirmed and verified by

the detaining authority before passing the impugned order of detention. It is been averred that whole of the material relied upon by the detaining authority while passing the impugned detention order has been furnished to the detainee and the contents of the same were read over and explained to him. It has been further contended that the detainee was informed that he can make a representation to the government as well as to the detaining authority against his detention. It has been averred in the reply affidavit that all statutory requirements and constitutional guarantees have been fulfilled and complied with by the detaining authority and that the order has been issued validly and legally. It has also been contended that the detention of the detainee has been ordered strictly in accordance with the provisions of J&K Public Safety Act. The respondents have produced the detention record to lend support to the stand taken in the counter affidavit.

4) I have heard learned counsel for the parties and perused record of the case.

5) Although the petitioner has urged a number of grounds in the writ petition, for assailing the impugned order of detention yet during the course of arguments, learned counsel for the petitioner has laid much emphasis on the following grounds:

- (I) That there has been non-application of mind on the part of the detaining authority in passing the impugned order of detention, inasmuch as there is no mention of

discharge of the petitioner in the challan arising out of FIR No.09/2024 of Police Station, Lalpora.

- (II) That no fresh activity has been attributed to the petitioner after his discharge in FIR No.09/2024.
- (III) That there has been delay in consideration of the representation of the petitioner against the impugned order of detention.
- (IV) That petitioner is ailing and his further incarceration is going to be detrimental to his life and safety.
- (V) That there were no compelling reasons for the detaining authority to pass the impugned order of detention.

6) In the context of the first ground of challenge, if we have a look at the grounds of detention, it is clearly mentioned that the petitioner was challaned on 10.09.2024 before the NIA Court, Kupwara, in connection with case FIR No.09 of 2024 of Police Station, Lalpora, whereafter he has been discharged in respect of offences under ULA(P) Act, but the trial against the petitioner in respect of offence under Section 7/25 Arms Act is going on. It has also been mentioned that the order of discharge has been assailed by the respondents before this Court. Thus, the detaining authority has given vivid details about the order of discharge and it has shown awareness about the fact that the petitioner has been discharged only in offences under ULA(P) Act and that he is facing trial for offence under Section 7/25 Arms Act. Thus, the contention of the petitioner that there has

been non-application of mind on the part of the detaining authority is without any substance.

7) Next it has been contended that no fresh activity has been attributed to the petitioner after his release from the custody in FIR No.09 of 2024. In the grounds of detention, it is mentioned that as per recent reports received from sister agencies, the petitioner is still indulging in subversive activities and he has a strong association with banned terrorist organization LeT/HM. The respondents have collected reports from field/sister agencies, which form part of the detention record. Copies of these reports have been provided to the petitioner along with other material on the basis of which grounds of detention have been formulated. Thus, there was sufficient material on record before the detaining authority to conclude that even after his release in the criminal case, the petitioner continued to indulge in subversive activities which are substantiated by the field reports forming part of the detention record. The contention of the petitioner, therefore, is without any substance.

8) Next it has been contended that the representation of the petitioner against the impugned order of detention has been considered by the respondents belatedly, as such, the impugned order of detention is vitiated. In this regard, a perusal of the detention record would show that the petitioner had made a representation on 21.07.2025 before the respondents. It appears that immediately on receipt of the said representation,

the same was processed and upon receipt of comments of SSP, Kupwara, on 22.08.2025, the representation came to be rejected by the respondents. The record shows that there has been no undue delay on the part of the respondents in disposing of the representation of the petitioner. The record further shows that result with regard to disposal of the representation has been conveyed to the petitioner promptly. It further appears that the petitioner had made another representation dated 18.08.2025 to the respondents and the same, after its consideration, was rejected by the respondents on 08.10.2025. It appears that there has been no undue delay on the part of the respondents in processing and considering the said representation. The contention of the petitioner, therefore, is without any substance.

9) It has been contended by the petitioner that he is suffering from ailment and, as such, his continued detention would endanger his life. In this regard, the petitioner has not placed on record any document to show that he is suffering from any ailment, much less a serious ailment that would warrant his immediate release from preventive custody.

10) Lastly, it has been contended that there were no compelling reasons for the detaining authority to pass the impugned order of detention. In this context, it is to be noted that after release of the petitioner pursuant to his discharge in

FIR No.09/2024, he continued to indulge in subversive activities which is clear from a perusal of the grounds of detention supported by intelligence inputs. Therefore, the detaining authority had no option but to pass a detention order against the petitioner so to prevent him from indulging in subversive activities pursuant to his release in the criminal case.

11) For the foregoing reasons, I do not find any ground to interfere with the impugned order of detention. The petition lacks merit and is dismissed accordingly.

12) The detention record be returned to learned counsel for the respondents.

 (Sanjay Dhar)
Judge

Srinagar
17.07.2026
“Bhat Altaf-Secretary”

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