

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

LPA 281/2025 in HCP 322/2024

Reserved on: - 02/07/2026
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**1. Ubaid Yousuf Kuttay
S/o. Mohammad Yousuf Kuttay
R/o. Chotipora Shopian,
Tehsil and District Shopian... (Through his father)**

...Petitioner(s)/Appellant(s).

Through: Mr. B.A. Tak, Advocate with
Mr. Muzaffer Mohi Ud Din, Advocate

Vs.

**1. Union Territory of Jammu and Kashmir
Through Principal Secretary, to Govt
Home Department, Civil Sectt.
Srinagar/Jammu**
2. District Magistrate Shopian.
3. Senior Superintendent of Police, Shopian.

...Respondent(s).

Through: Mr. Bikramdeep Singh, Dy. AG

CORAM:

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE
JUDGMENT**

Mohd Yousuf Wani-(J)

1. Impugned in this Letters Patent Appeal is the judgment dated 08-11-2025 passed by the Ld. Single Bench of this Court [hereinafter referred to as the "Writ Court" for short] in Habeas Corpus Petition No. 322/2024, titled "*Ubaid Yousuf Kuttay versus UT of Jammu and Kashmir and others*", whereby the Ld. Writ Court has dismissed the same as being meritless.

2. The impugned judgment has been assailed on the grounds, inter alia, that the Ld. Writ Court did not appreciate the case of the appellant/detenué as projected through the memo of writ petition and the arguments as advanced. That same is bad in law

and deserves to be set aside. That the respondent No. 2---District Magistrate, Shopian [hereinafter referred to as the "Detaining Authority" for short], did not apply his mind in the case brought before him by the respondent No. 3---Senior Superintendent of Police, Shopian, and hurried to pass the impugned detention order without making some verification on his part, which material fact has escaped the attention and consideration on the part of the Ld. Writ Court. That the grounds of detention constitute the replica of the dossier submitted by the respondent No. 3 to the Detaining Authority, which makes the impugned detention order bereft of application of mind.

That the respondents did not consider the representation filed on behalf of the appellant/detenu, and the same was lately shown to have been so considered and rejected on 22.10.2024, without communicating the said fact to the appellant/detenu, which aspect of the case was not appreciated by the Ld. Writ Court. That the Ld. Writ Court also did not appreciate the fact, as agitated in the petition before it, to the effect that the appellant/detenu was not furnished with the copy of the detention record in entirety, which prevented him from making an effective representation at an earliest and to throw challenge to the impugned detention order on all the grounds.

That the allegations levelled against the appellant/detenu, as per the grounds of detention basing the impugned order, are not backed by any sort of evidence and the respondent No. 3 could not have levelled such heinous allegations in air, which important aspect of the case again appears to have escaped the attention and consideration by the Ld. Writ Court. That the grounds of detention mainly accuse the appellant/detenu of providing logistic support to his brother, Shahid Yousuf Kuttay, being a terrorist, and the fact of his said brother having been killed on 13.05.2025, was not considered by the Ld. Writ Court in the impugned judgment. That the Ld. Writ Court also did not appreciate the fact that the Detaining Authority had observed, in breach, the constitutional/statutory guarantees available to the

appellant/detenué in terms of provisions of Article 22(5) of the Constitution of India and Section 13 of the Jammu and Kashmir Public Safety Act, 1978, [hereinafter referred to as the "PSA" for short]. That the allegations made in the grounds of detention were vague and far from facts to be believed by no prudent man without any evidence.

3. The case of the appellant/detenué, in nutshell, is that he was arrested without any justification or cause by the Police Station Shopian, whereafter he came to be shifted to the District Jail, Baramulla for undergoing preventive detention, pursuant to the detention order No. 189/DMS/PSA/2024, dated 12-09-2024, passed by the Detaining Authority, which was impugned before the Ld. Writ court. That the accusations made against him, as per the grounds of detention dated 12-09-2024, are totally baseless and false, without being backed by any sort of evidence. That he has never indulged in any unlawful activity by providing any logistic support, as alleged, to the terrorists or by otherwise working as an OGW. That he is a student pursuing his BA Second Year in Government Degree College, Shopian. That his father is an old and ailing person presently suffering from cancer disease, with nobody to take his care at home. That the ailment of his father has worsened since his arrest in September 2024. That there is no source of sustenance for his family as he is the only son of his parents. That his brother, Shahid Yusuf Kuttay, to whom as per the grounds of detention, he stands accused of providing logistic support, has already been killed on 13-05-2025. That aggrieved by the order of detention, he, through his father, challenged the same before this Court on justified grounds, but the Ld. Writ Court dismissed his petition, which led to his continued detention since his arrest by the Police Station, Shopian in September, 2024.

4. The Detaining Authority resisted the petition of the appellant/detenué, before the Ld. Writ Court on the grounds, inter alia, that the detenué received his elementary education at his native village Chotipora, Sedow of district Shopian, and is

currently pursuing BA Second Year in Government Degree College, Shopian; that he has emerged to be a national security suspect; that as per the details ascertained through/from sensitive channels, his role has prominently surfaced in the past terror attacks that took place in district Shopian; that following the directions of PAK-based handlers, he has become a staunch and well-known OGW of Lashkar-e-Taiba/TRF terrorist outfits; that he along with other OGWs provided every possible support and logistics to terrorists; that he is the brother of active terrorist namely Shahid Yusuf Kuttay, and is in continuous contact with him as well as other terrorists; that he is actively involved in providing a variety of logistic support to the terrorists who have unleashed a spate of terror in the area and whose targets include street vendors, labourers from outside the UT working in orchards, small shops and commercial establishments, etc.; that he has been carrying his nefarious activities in a secret manner so as to avoid his exposure, thus leaving no timely occasion for the law enforcement agencies to deal with him under the normal law; that the normal law of the land shall not be sufficient for confining him for a long period; that the copies of the detention record in full were furnished to him under his acknowledgment; that he was informed vide communication dated 12-09-2024 regarding the grounds of his detention with further information that he has a right to make a representation to the Detaining Authority as also to the Government; that the Government, after examining the detention order and the material placed on record, approved the detention order in terms of Sub-section 4 of Section 8 of the PSA, vide order bearing No. Home/PB-V/1821 of 2024, dated 21-09-2024; that the grounds taken in the petition are denied as being false and frivolous; that the detention order was passed by the Detaining Authority after proper application of mind and on perusal of the record brought before it; that the purpose of preventive detention is to prevent a person from acting in any manner prejudicial to the interests of the security of the State or of public order and, as such, is not intended to punish him for

something he has done and that there is no parallel between the prosecution in a court of law and a detention order under PSA.

5. We have heard the learned counsel for the parties on both sides and considered their rival submissions.

6. We have perused the record of the instant Intra-Court Appeal, especially the impugned judgment dated 08-11-2025, the impugned detention order dated 12-09-2024, and the grounds of detention dated 12-09-2024. The detention record made available by the learned counsel for the respondents has also been gone through.

7. The impugned detention order has been passed mainly on the ground that the appellant/detenué was providing shelter and logistic support to his brother, namely Shahid Yousuf Kuttay, who was then an active terrorist. It is also alleged, as per the grounds of detention, that the appellant, besides his aforesaid brother, was then in contact with another active terrorist, namely Abid Ramzan Sheikh, and was providing every kind of logistic support like shelter, food, information, etc., to the aforesaid terrorists, besides being in touch with Pakistan-based handlers.

8. The detention of the appellant on the said alleged grounds has been considered by the Ld. Writ Court in the impugned judgment. None of the aforesaid allegations appear to have been backed by the registration of any case FIR against him or even by making an entry in the relevant registers of any police station. It is alleged in the grounds of detention dated 12-09-2024, basing the impugned detention order, that the role of the appellant/detenué prominently surfaced in the past terror attacks that took place in the District of Shopian. There is a mention on the part of the Detaining Authority in the grounds of detention, on the basis of the report of respondent No. 3, i.e., the Senior Superintendent of Police, Shopian, that the appellant/detenué, prior to his detention, was carrying his nefarious activities in a clandestine manner to avoid his exposure, thus simultaneously leaving no timely

occasion for the law enforcement agencies to deal with him under the substantive law.

Such heinous allegations are not believable in the absence of any legal action against the appellant under the normal criminal law.

9. Invoking the preventive detention of any person by recourse to the provisions of the preventive detention laws is no alternative for an action demanding to be taken against him under the criminal law for the alleged commissions and omissions constituting offences under the penal laws. However, there is no doubt as regards the well-settled legal position that preventive detention is not parallel in the shape of double jeopardy, as the aim and objective of preventive detention is to deter a criminal from repeating his unlawful activities. In cases where preventive detention is invoked in justified circumstances in the interest of the security of the State or public order, in addition to the action initiated or taken under the normal criminal law, the Detaining Authority, as a rule of caution, needs to keep on record as to how the normal criminal law is inadequate to tackle the detainee.

10. It appears that, in the facts and circumstances of the case, the preventive detention has been ordered while giving credence to the vague allegations bereft of any supporting evidence.

11. In our opinion, we feel fortified with the judgment of the Hon'ble Apex Court passed in the case titled **“Rameshwar Shaw versus District Magistrate, Burdwan and Another, AIR 1964 SC 334”**, the relevant portion whereof is reproduced as under:

"In deciding the question as to whether it is necessary to detain a person, the authority has to be satisfied that the said person if not detained may act in a prejudicial manner and this conclusion can be reasonably reached by the authority generally in light of evidence about past prejudicial activities of the said person. When evidence is placed, the Detaining Authority has to examine the said evidence and decide whether it is necessary to detain the said person in order to prevent him from acting in a prejudicial manner. Thus, it was held that the past conduct or antecedent history of a person can be taken into account in

making the detention order and it is largely from prior events showing tendencies or inclinations of a man that an inference could be drawn whether he is likely even in the future to act in a manner prejudicial to the maintenance of public order. Further the past conduct or history of the person on which the authority purports to act should ordinarily be proximate in point of time and should have the rational connection with the conclusion that the detention of the person is necessary, that it would be irrational to take into account the conduct of a person which took the place years before the date of detention".

12. The allegations of providing shelter and logistic support to the terrorists, including his then alive brother, against the appellant/detenué, appear to be general and vague, not only without any evidentiary basis, but also without reference to the date and time. The Detaining Authority is required under law to consider whether any alleged act is proximate to the intended detention order. It is on record that the brother of the appellant/detenué, whom he is alleged to have been providing logistic support, was killed on 13.05.2025, that is, about five months before the passing of the impugned judgment by the Ld. Writ Court. The Ld. Writ Court did not consider this aspect of the case to appreciate that the proximity/live link between the alleged act of the appellant/detenué and the object of passing of the detention order had got subsequently snapped.

13. The Hon'ble Supreme Court of India, in **“Rajinder Arora versus Union of India and Others, AIR (2006) 4 SCC 796”**, inter alia, observed:

"The conspectus of the above decisions can be summarized thus: The question whether the prejudicial activities of a person necessitating to pass an order of detention are proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each case. No hard and fast rule can be precisely formulated that would be applicable under all circumstances and no exhaustive guidelines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting number of months between the offending acts and the order of detention. However, when there is undue and long delay between the prejudicial activities and the passing of detention

order, the court has to scrutinize whether the detaining authority has satisfactorily examined such a delay and afforded a tenable and reasonable explanation as to why such a delay has occasioned, when called upon to answer and further the court has to investigate whether the causal connection has been broken in the circumstances of each case.

Similarly, when there is unsatisfactory and unexplained delay between the date of order of detention and the date of securing the arrest of the detenu, such a delay would throw considerable doubt on the genuineness of the subjective satisfaction of the detaining authority leading to a legitimate inference that the detaining authority was not really and genuinely satisfied as regards the necessity for detaining the detenu with a view to preventing him from acting in a prejudicial manner."

14. We are however conscious of the law as already laid down by the Hon'ble Apex Court in **"Naresh Kumar Goyal vs. Union of India (2005) 8 SCC 276"** and **"Haradhan Saha vs. State of W.B. (1975) 3 SCC"**, to the effect that an order of detention is not a curative or reformatory or punitive action, but a preventive action, avowed object of which being to prevent the anti-national, anti-social and subversive elements from imperiling the welfare of the country or the security of the nation or from disturbing the public tranquility or from indulging in smuggling activities or from engaging in illicit traffic in narcotic drugs and psychotropic substances etc.

"The power of preventive detention is a precautionary power exercised in reasonable anticipation. It is not a parallel proceeding. It does not overlap with prosecution even if it relies on certain facts for which prosecution may be launched or may have been launched. An order of preventive detention may be made before or during the prosecution. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even acquittal. The pendency of the prosecution is no bar to an order of preventive detention. The order of preventive detention is also not a bar to prosecution".

"Article 14 is inapplicable because preventive detention and prosecution are not synonymous. The purposes are different. The

authorities are different. The nature of the proceedings is different. In a prosecution an accused is sought to be punished for a past act. In preventive detention, the past act is merely the material for inference about the future course of probable conduct on the part of the detainee”.

15. We are also of the opinion that it is not the number of acts that are determined for detention of an individual but it is the impact of the act which is material and determinative.

As hereinbefore mentioned, the impugned detention order appears to have been passed on vague, unverifiable and bald allegations unsupported with any evidence or material. It is unsafe to consider such vague allegations as constituting a past act for deriving any inference about the future course of probable conduct on the part of detainee.

16. The grounds of detention basing the impugned detention order apparently **look as a “ditto” or “verbatim”** of the police dossier, which speaks of the non-application of mind on the part of the Detaining Authority. No doubt, the police dossier has to be the basic input and information to the Detaining Authority for consideration of the powers vested in it under the provisions of the PSA. Yet, the application of mind on the part of the Detaining Authority is a *sine qua non* for the passing of the detention order. The Detaining Authority is required under law to make some verification at its own level too by setting into motion its own machinery for its subjective satisfaction before proceeding to curtail one's liberty which is only permitted in accordance with law.

All the grounds of detention framed by the detaining authority and basing the impugned detention order start by reference to the **police dossier**. The dossier of the respondent No. 3 submitted to the detaining authority and the grounds of detention framed by the latter, when both are kept and perused in juxtaposition, clearly reveal that the detaining authority has followed the police dossier in its entirety. Thus, there is reason to

believe that the impugned detention order is bereft of subjective satisfaction and non-application of mind on the part of the detaining authority.

17. In **“Jai Singh and Others v. State of J&K, AIR 1985 SC 764, decided on 24.01.1985”**, the Hon'ble Apex Court, *inter alia*, observed:

"First taking up the case of Jai Singh, the first of the petitioners before us, a perusal of the grounds of detention shows that it is a verbatim reproduction of the dossier submitted by the Senior Superintendent of Police, Udhampur, to the District Magistrate requesting that a detention order may kindly be issued. At the top of the dossier, the name is mentioned as Sardar Jai Singh, father's name is mentioned as Sardar Ram Singh and the address is given as village Bharakh, Tehsil Reasi. Thereafter it is recited "The subject is an important member of"

Thereafter follow various allegations against Jai Singh, paragraph by paragraph. In the grounds of detention, all that the District Magistrate has done is to change the first three words "the subject is" into "you Jai Singh, S/o Ram Singh, resident of village Bharakh, Tehsil Reasi". Thereafter word for word the police dossier is repeated and the word "he" wherever it occurs referring to Jai Singh in the dossier is changed into "you" in the grounds of detention. We are afraid it is difficult to find greater proof of non-application of mind. The liberty of a subject is a serious matter and is not to be trifled with in this casual, indifferent and routine manner."

18. A Division Bench of this Court, in similar facts and circumstances, in **“Showkat Ali versus Union Territory of Jammu and Kashmir and Ors, LPA No. 19 of 2024, decided on 26-07-2024”**, while deliberating upon the necessity of subjective satisfaction of the Detaining Authority on the basis of supporting material, has, *in paras 10 to 14*, made the following observations:

“10. There is a plethora of judgements of the Supreme Court and the various high Courts of the country on the aspect of "subjective satisfaction" to be arrived at by the detaining authority which would reflect the application of mind on its part. The main grounds for setting aside an order of preventive detention are the non-application of mind of the detaining authority or the denial of opportunity or material to the detainee

to enable him to make an effective representation against his detention. That brings this court to the question as to whether subjective satisfaction can be arrived at by the detaining authority only based on bald allegations in the police dossier, without there being any facts/material in support of those allegations?

11. Before proceeding further, certain questions come to the mind of this Court. (a) Firstly, is there any difference between an "Allegation" and "Charge"? and (b) secondly, if there is a difference between the two, is there a variation in their application qua a criminal trial and in proceedings under the preventive detention laws? And (c) thirdly, what is required in the grounds of detention, an allegation or a charge?

12. An allegation is an imputation. It need not be verifiable. Charge on the other hand is also an imputation, albeit verifiable. An imputation without material in support is an allegation and an imputation with supporting material is a charge which prima facie reflects that what is imputed, maybe true. Thus, allegation is the genus and charge its species. By analogy, the concept can be understood at the stage of framing charge in a criminal trial. The chargesheet filed by the police may level several allegations against the accused in the chargesheet but, the Trial Court frames charge for only those allegations for which prima facie evidence exists in the chargesheet. While an allegation may be generalised, non-specific and broad based, a charge must be specific, precise and accord a reasonable opportunity to the person so charged to conduct his defence or proffer an explanation. Thus, a verifiable allegation/imputation is a charge.

13. To answer the second question that this Court has posed to itself, this Court is of the opinion that there is a marked difference in the operation of "charge" in a criminal trial and in proceedings under the preventive detention laws. In a criminal trial, the one who imputes i.e., the prosecution, bears the onus probandi of proving every single charge against the accused which if not proved beyond reasonable doubt, may result in the acquittal of the accused. While, in proceedings under the preventive detention laws, the onus probandi of giving a convincing explanation to the imputations levelled by the detaining authority, is on the detenue and if the same satisfies the detaining authority or the advisory board, his detention may be revoked.

14. As regards the third question as to what is required to be stated in the grounds of detention viz., allegations or charge, this Court is of the view that the grounds of detention must lay down the charge against the detenue. It must be precise, unequivocal

and unambiguous. The detainee must be in a position to give a specific reply/rebuttal to the charge and that is only possible where charge is specific and precise. Else, the detainee is only able to give a bare denial by stating that the allegation is false. However, if the charge is specific regarding the date, time and the specific act of the detainee which requires him to be taken into preventive detention then, the detainee is able to give a specific response of denial rather than a bare denial. Thus, this Court is of the view that the grounds of detention must lay down the specific charge against the detainee rather than unsubstantiated and unverifiable allegations. If the grounds of detention are based on unsubstantiated allegations, the same, along with the order of detention can be quashed as the detainee has not been given an opportunity to make a viable representation either to the detaining authority or to the advisory board. The opportunity to represent to the abovementioned authorities is not a hollow formality. To detain a person only based on allegations without there being any material to substantiate those allegations would imperil the fundamental right of the individual enshrined in article 21 of the Constitution.

19. It has been averred in the instant LPA and was also pleaded in the learned Writ Court petition that the Detaining Authority did not furnish to the appellant/detainee the copies of the detention record in full at the time of his arrest pursuant to the impugned detention order, which prevented him from making an effective and meaningful representation at the earliest.

20. It is the case of the appellant/detainee that the result of the representation made by him through his father was not communicated to him.

A careful perusal of the detention order dated 12-09-2024 as also of the following communication order, conjointly reveals that the appellant/detainee has not been informed in clear and unambiguous terms regarding his right to make a representation at an earliest to the detaining authority as also to the Government.

21. Non-supply of the entire set of documents basing and referred to in the detention order at an earliest contravenes

the provisions of Article 22 (5) of the Constitution. The Constitutional mandate regarding information to the petitioner/detenu that he has a right to make representation to the detaining authority or to the Government in respect of his preventive detention is not to be taken as a mere formality by making mention of the words, "the detenu was also informed that he can make a representation to the detaining authority or to the government in respect of his preventive detention" in the previously cyclostyled/computerized receipts but is meant to be followed with utmost fairness, responsibility and accountability having regard to the fact that detenu's fundamental right to life and personal liberty is being curtailed on account of his apprehended conduct. The detaining authority and the government in case of making any representation by the detenu to them as regards his detention are under a constitutional obligation to accord due consideration under law to the same and to intimate the result of the consideration to the detenu through the concerned jail authority or through his home people.

22. The relevant portion of the law laid down by the Hon'ble Supreme Court of India in case titled "**Shalini Soni Vs. Union of India (1980) 4 SCC 544**", deserves a needful mention as under: -

"The Article 22 (5) has two facets (1) communication of the grounds on which the order of detention has been made; (2) opportunity of making a representation against the order of detention. Communication of the grounds pre-supposes the formulation of the grounds and formulation of the grounds requires and ensures the application of the mind of the detaining authority to the facts and materials before it, that is to say to pertinent and proximate matters in regard to each individual case and excludes the elements of arbitrariness and automatism (if one may be permitted to use the word to describe a mechanical reaction without a conscious application of the mind). It is an unwritten rule of the law, constitutional and administrative, that whenever a decision-making function is entrusted to the subjective satisfaction of a statutory functionary, there is an implicit obligation to apply his mind to

pertinent and proximate matters only eschewing the irrelevant and the remote. Where there is further an express statutory obligation to communicate not merely the decision but the grounds on which the decision is founded. It is a necessary corollary that the grounds communicated, that is, the grounds so made known, should be seen to pertain to pertinent and proximate matters and should comprise all the constituent facts and materials that went in to make up the mind of the statutory functionary and not merely the inferential conclusions. Now, the decision to detain a person depends on the subjective satisfaction of the detaining authority. The Constitution and the statute cast a duty on the detaining authority to communicate the grounds of detention to the detenu. From what we have said above, it follows that the grounds communicated to the detenu must reveal the whole of the factual material considered by the detaining authority and not merely the inferences of fact arrived at by the detaining authority. The matter may also be looked at from the point of view of the second facet of Article 22(5). An opportunity to make representation against the order of detention necessarily implies that the detenu is informed of all that has been taken into account against him in arriving at the decision to detain him. It means that the detenu is to be informed not merely, as we said, of the inferences of fact but of all the factual material which have led to the inferences of fact. If the detenu is not to be so informed the opportunity so solemnly guaranteed by the Constitution becomes reduced to an exercise in futility. Whatever angle from which the question is looked at, it is dear that "grounds" in Article 22(5) do not mean mere factual inferences but mean factual inferences plus factual material which led to such factual inferences. The 'grounds' must self-sufficient and self-explanatory. In our view copies documents to which reference is made in the 'grounds' may be supplied to the detenu as part of the 'grounds'."

23. In **“Rajammal v. State of Tamil Nadu and others, 1999 (1) SCC 417”**, it has been held that:

"It is a constitutional obligation of the Government to consider the representation forwarded by the detenu without any delay. Though no period is prescribed by Article 22 of the Constitution for the decision to be taken on the representation, the words "as soon as may be in clause (5) of Article 22 convey the message that the representation. should be considered and disposed of at the earliest."

24. In "**K. M. Abdulla Kunhi v. Unio of India (1991) 1 SCC 476**", it has been held as follows:

".... it is settled law that there should not be supine indifference, slackness or callous attitude in considering the representation. Any unexplained delay in the disposal of the representation would be breach of the constitutional imperative and it would render the continued detention impermissible and illegal."

25. 28. In "**A.K. Roy Vs. Union of India, (1982) 1 SCC 271**", it was held at para 70 of the judgment as under: -

"70. We have the authority of the decisions in... for saying that the fundamental rights conferred by the different articles of Part III of the Constitution are not mutually exclusive and that therefore, a law of preventive detention which falls within Article 22 must also meet the requirements of Articles 14, 19 and 21."

26. **The preventive detentions need to be passed with great care and caution keeping in mind that a citizens most valuable and inherent human right is being curtailed. The arrests in general and the preventive detentions in particular are an exception to the most cherished fundamental right guaranteed under Article 21 of the Constitution of India. The preventive detentions are made on the basis of subjective satisfaction of the detaining authority in relation to an apprehended conduct of the detenu by considering his past activities without being backed by an immediate complaint as in the case of the registration of the FIR and, as such, is a valuable trust in the hands of the trustees. The provisions of Clauses (1) and (2) of Article 22 of our Constitution are not applicable in the case of preventive detentions. So, the provisions of Clause (5) of the Article 22 of our Constitution, with just exception as mentioned in Clause (6), together with the relevant provisions of the Section 8 of PSA requiring for application of mind, subjective satisfaction, inevitability of the detention order, proper and prompt communication of the grounds of detention and the information of liberty to make a representation against the detention order, are the imperative and inevitable conditions rather mandatory requirements for passing of a detention order.**

27. The appellant/detenué, whose preventive detention was ordered by the Ld. Detaining Authority pursuant to the Order No. 189/DMS/PSA/2024 dated 12.09.2024 on the ground of security of the State in exercise of its powers vested under Section 8 of the PSA, has almost undergone his period of detention, less by one month.

28. In the backdrop of the foregoing *facto legal* scenario of the case, we allow the instant LPA and set aside the impugned judgment dated 08-11-2025 of the Ld. Writ Court passed in HCP No. 322 of 2024. Consequently, the impugned detention order bearing No. 189/DMS/PSA/2024 dated 12-09-2024 passed by respondent No. 2, i.e., District Magistrate, Shopian, in respect of the appellant, also stands quashed.

29. As a result, the appellant/detenué, Ubaid Yusuf Kuttay, S/o. Mohammad Yusuf Kuttay, R/o. Chotipora, Shopian, Tehsil and District Shopian, is directed to be released from his preventive detention in this case provided he is not involved in any other case.

30. **Disposed of.**

(MOHD YOUSUF WANI)
JUDGE

(SANJEEV KUMAR)
CHIEF JUSTICE (ACTING)

SRINAGAR

06/08/2026

“Shahid Manzoor”

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| 1. Whether the judgment is speaking | Yes |
| 2. Whether approved for reporting in Law Journal/Reporter (print/electronic) | Yes |
| 3. Whether approved for reporting in Press/Media | No |