HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Reserved on: **15.10.2026**
Pronounced on: **30.10.2026**
Uploaded on: **30.10.2026**

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

HCP No. 53/2026

Vikash Singh …..Appellant(s)/Petitioner(s)
Age 27 years S/O Balbir Singh
R/O Village Bomal Kotgarhi
Tehsil Akhnoor District
Jammu

Through: Mr. G. S. Thakur, Advocate.

vs

1. **Union Territory of Jammu and Kashmir** ….. Respondent(s)
   Th. its Commissioner
   Secretary Home, Civil
   Secretariat, Srinagar.
2. **Senior Superintendent of Police District Jammu.**
3. **District Magistrate Jammu.**

Through: Mr. P. D. Singh, Dy. AG.

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

JUDGMENT

1. The petitioner, through the medium of present petition, has challenged detention **order No. 08 PSA of 2026 dated 04.05.2026** (hereinafter to be referred as 'the Impugned order'), issued by the District Magistrate, Jammu (hereinafter to be referred as the 'Detaining Authority'), whereby Vikash Singh S/O Balbir Singh R/O Village Bomal Kotgarhi Tehsil Akhnoor District Jammu Tehsil Akhnoor (hereinafter to be referred as 'the Detenue') has been subjected to preventive detention

with a view to prevent him from acting in any manner prejudicial to the maintenance of public order.

2. The petitioner has challenged the impugned order on the grounds that the incidents relating to which FIRs have been registered against the petitioner are not of such a nature as would endanger public order. It has been contended that the activities in which the petitioner is allegedly found to be involved can at best be a problem of law and order, therefore, it was not open to the Detaining Authority to pass the impugned order of detention on the basis of the said activities. Thus, according to the petitioner, there has been non-application of mind on part of the Detaining Authority and the subjective satisfaction has been drawn by the said authority in a mechanical manner. It has been contended that the grounds of detention are verbatim reproduction of dossier prepared by the Sponsoring Agency, which reflects non-application of mind on part of the Detaining Authority.

3. It has been further contended that the petitioner has not been provided the entire material forming basis of grounds of detention, nor has he been provided translated version of the said material, as a result of which, he has been hampered in making an effective and suitable representation against the order of detention, thereby violating his valuable constitutional right. It has been contended that the previous detention order passed against the petitioner has been quashed by this Court vide judgment dated 01.11.2023, but the same does not find mention in the grounds of detention, which reflects non-application of mind on part of the Detaining Authority. It has also been contended that representation made by the petitioner against the impugned order

of detention before the Government and the Detaining Authority has not been considered.

4. The respondents have contested the petition by filing the counter affidavit of Detaining Authority, wherein it has been submitted that the petitioner is a habitual criminal involved in various offences including the offences punishable under Arms Act. According to the Detaining Authority the repeated involvement of the petitioner in criminal activities demonstrates that ordinary criminal law has proved insufficient to deter him from continuing his unlawful activities which are prejudicial to the maintenance of public order and pose a serious threat to the safety and security of public and their property. It has been submitted that upon careful examination of the entire material, requisite subjective satisfaction was recorded by the Detaining Authority that preventive detention of detenue was necessary in the interest of maintaining public order. Thus, according to the respondents, the impugned detention order does not suffer from any illegality or procedural infirmity.

5. It has been contended that all the statutory and constitutional safeguards prescribed under the Jammu and Kashmir Public Safety Act were duly complied with and grounds of detention along with supporting material was furnished to the petitioner. He was also informed about his right to make representation before the Government and before the Detaining Authority. It has also been contended that the representation filed by the petitioner was found to be devoid of any merit and the same was rejected, regarding which a

communication was addressed to the Superintendent District Jail, Bhaderwah with a direction to inform the detenue.

6. In order to support its contention, the Detaining Authority has produced the relevant record.

7. I have heard learned counsel for the parties and perused record of the case including the detention record.

8. Learned counsel for the petitioner, while seeking quashment of the impugned detention order, has projected various grounds, but his main thrust during the course of arguments was on the ground that the representation submitted by the detenue against his detention has not been considered by the respondents, thereby rendering the order of detention unsustainable in law.

9. In the above context the record produced by the respondents reveals that the petitioner has made a representation dated 23.05.2026 through his father. The said representation was forwarded by the District Magistrate, Jammu to the Government vide communication dated 29.05.2026. It seems that the representation of the petitioner has been rejected by the Government and communication dated 14.07.2026 has been addressed by the Government to the District Magistrate, Jammu informing him about disposal of the representation of the petitioner. A copy of the said communication has been addressed to the Superintendent District Jail, Bhaderwah with a direction to inform the detenue regarding disposal of the representation.

10. The question that arises for consideration is whether the delay of about eight weeks occasioned in considering the representation of the petitioner by the Government vitiates the impugned order of detention.

11. The aforesaid question has been answered by the Supreme Court in **Sarabjeet Singh Mokha vs. District Magistrate, Jabalpur and others** reported in **(2021) 20 SCC 98**. It would be apt to refer to observations made by the Supreme Court in para (47) of the judgment, which is reproduced as under:-

> *"47. By delaying its decision on the representation, the State Government deprived the detenue of the valuable right which emanates from the provisions of Section 8(1) of having the representation being considered expeditiously. As we have noted earlier, the communication of the grounds of detention to the detenue "as soon as may be" and the affording to the detenue of the earliest opportunity of making a representation against the order of detention to the appropriate government are intended to ensure that the representation of the detenue is considered by the appropriate government with a sense of immediacy. The State Government failed to do so. The making of a reference to the Advisory Board could not have furnished any justification for the State Government not to deal with the representation independently at the earliest. The delay by the State Government in disposing of the representation and by the Central and State Governments in communicating such rejection, strikes at the heart of the procedural rights and guarantees granted to the detenue. It is necessary to understand that the law provides for such procedural safeguards to balance the wide powers granted to the executive under the NSA. The State Government cannot expect this Court to uphold its powers of subjective satisfaction to detain a person, while violating the procedural guarantees of the detenue that are fundamental to the laws of preventive detention enshrined in the Constitution."*

12. From the foregoing analysis of law on the subject, it is manifest that delaying of decision on the representation of the detenue amounts to an infringement of a valuable right which is available to a detenue in terms of provisions contained in Section 13 of the Jammu and Kashmir Public Safety Act, which makes it obligatory on the Detaining Authority to communicate to the detenue the grounds on which the order of detention has been made within a maximum period of ten days from the date of detention and to afford him the earliest

opportunity of making representation against the order of detention. The purpose of furnishing the grounds of detention within a maximum period of ten days is to enable a detenue to make a representation against the order of detention at the earliest opportunity. Thus, a duty is cast upon the Detaining Authority or the Government to consider the said representation at the earliest opportunity. Failure to decide the representation of a detenue within a reasonable time in an expeditious manner strikes at the valuable right of a detenue emanating from the provisions of Section 13 of the Jammu and Kashmir Public Safety Act.

13. In the present case, there has been a delay of about eight weeks in deciding the representation of the petitioner. This delay has remained unexplained. There is nothing either in the detention record or in the counter affidavit filed by the Detaining Authority to justify this delay. The impugned order of detention, therefore, is vitiated.

14. Apart from above, there is no material available in the detention record produced by the respondents to show that information regarding disposal of representation has been furnished to the detenue. The only record which is available is a communication dated 14.07.2026 addressed by the Government to the District Magistrate, Jammu informing him about rejection of the representation of the petitioner. Even though, a copy of the above communication has been addressed to the Superintendent District Jail, Bhaderwah with a direction to inform the petitioner about disposal of the representation, yet there is nothing on record to show that information with regard to disposal of his representation has actually been given to the detenue. While forwarding the copy of the communication dated 14.07.2026 to the

Superintendent District Jail, Bhaderwah, it has been specifically provided that copy of the receipt/acknowledgement duly signed by the detenue be forwarded to the Home Department and the Detaining Authority, but there is no such receipt executed by the detenue available in the record, meaning thereby that the information with regard to disposal of his representation has never been furnished to him.

15. The Supreme Court, in case of **Sarabjeet Singh Mokha (Supra)** has held that omission to inform the detenue about the result of representation vitiates the detention order. Thus, on this ground also, the impugned order of detention is vitiated.

16. For what has been discussed hereinabove, the present petition is allowed and the impugned detention order is quashed. The respondents are directed to release the petitioner from preventive detention forthwith, provided he is not required in connection with any other case.

17. The detention record be returned to the learned counsel for the respondents against proper receipt.

18. **Disposed of.**

(SANJAY DHAR)
JUDGE

Jammu
30.10.2026
Sahil Padha

Whether the order is speaking: Yes/No.
Whether the order is reportable: Yes/No.

Sahil Padha
2026.10.30 16:50
I attest to the accuracy and
integrity of this document