Serial No. 8
Regular Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

HCP 45/2026 CM(2990/2026) CM(7508/2026)

OWAIS AHMAD BHAT TH.HIS FATHER

…Appellant(s)\Petitioner(s)

Through: -
Mr. Danish Majid Dar, Advocate

V/s

UNION TERRITORY OF J&K (HOME) AND OTHERS

… Respondent(s)

Through: -
Ms. Rahila Khan, Assisting Counsel vice
Mr. Mohsin Qadri, Sr. AAG

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

(ORDER)

12.11.2026

1. Heard Mr. Danish Majid Dar, learned counsel for the petitioner. Also heard Ms. Rahila Khan learned Assisting Counsel to Mr. Mohsin Qadri, learned Sr. AAG.

2. Perused the writ pleadings and the documents therewith. Also perused the detention record in photostat form produced from the end of Ms. Rahila Khan learned Assisting Counsel.

3. The petitioner- Owais Ahmad Bhat alias Dodda, acting through his father, came to petition this Court with present writ petition filed on **15.05.2026** being aggrieved of his preventive detention custody imposed by virtue of an Order **No. DMS/PSA/19/2026** dated **27.04.2026** passed by the respondent No.2- District Magistrate, Srinagar in exercise of power and

authority under section 8 of the Jammu and Kashmir Public Safety Act, 1978 by holding the petitioner's alleged state of activities on account of him being in a state of personal liberty as prejudicial to the maintenance of Public Order.

4. The petitioner was ordered to be detained and kept confined in the District Jail Bhaderwah. The petitioner's arrest came to take place on **30.04.2026**.

5. The petitioner's detention was processed by respondent No.3- Senior Superintendent of Police (SSP), Srinagar, who, vide his Letter **No.LGL/Det-PSA/2026/9090-93** dated **21.04.2026**, submitted a dossier to the respondent No.2- District Magistrate, Srinagar narrating therein the alleged state of activities and indulgences on the part of the petitioner being prejudicial to the maintenance of Public Order.

6. In said dossier, the petitioner's criminal antecedents came to be highlighted by reference to the following FIRs:

i. **FIR No.19/2021** of **P/S MR Gunj.**
ii. **FIR No.100/2010** of **P/S Safakadal.**
iii. **FIR No.119/2010** of **P/S Safakadal.**
iv. **FIR No.111/2010** of **P/S Safakadal.**

7. In addition, the petitioner was referred to be under surveillance mode and his objectionable state of activities came to be diarized in the beat book of **29.03.2026** and **04.04.2026** which led the respondent No.3- Senior Superintendent of Police (SSP), Srinagar to hook the petitioner for suffering preventive detention custody.

8. The respondent No.2- District Magistrate, Srinagar by literally borrowing text and context of the dossier came to reproduce it in the grounds of detention to order the petitioner's preventive detention in terms of impugned detention Order **No.DMS/PSA/19/2026** dated **27.04.2026.**

9. The petitioner, in his writ petition, has assailed preventive detention custody on the grounds as set out in para- 1 grounds (I) to (VII).

10. The respondent No.2- District Magistrate, Srinagar, in his affidavit filed on **29.10.2026,** has come forward defending the preventive detention slapped upon the petitioner. The affidavit of the respondent No.2- District Magistrate, Srinagar submitted in compliance to the direction of this Court given in order dated **23.10.2026** is supplementing the counter affidavit submitted from the end of the respondent No.2- District Magistrate, Srinagar on **31.08.2026.**

11. When this Court examines the grounds of detention formulated by the respondent No.2- District Magistrate, Srinagar, this Court comes across with an inherent contradiction from the end of the respondent No.2- District Magistrate, Srinagar, who identifies the petitioner's alleged state of activities as posing threat to maintenance of law and order in the area. That being so, there was no scope whatsoever for the respondent No.2- District Magistrate, Srinagar, to oblige the respondent No.3- Senior Superintendent of Police (SSP),

Srinagar to book the petitioner for preventive detention order by reference to ground of detention as maintenance of Public Order.

12. This court doesn't want to tax this judgment by reference to the position of law as obtaining with respect to preventive detention cases wherein a very established distinction between Law and Order and maintenance of Public Order has been set out.

13. In the light of the aforesaid legal position, this Court holds preventive detention of the petitioner as misconceived and illegal and, thus, holds preventive Order **No. DMS/PSA/19/2026** dated **27.04.2026** passed by the respondent No.2, read with approval/confirmation/ extension orders passed by the respondent No.1, as illegal and, therefore, quashes the same by simultaneously ordering the release of the petitioner from his preventive detention custody from the confines of the District Jail Bhaderwah.

14. **Disposed** of.

(RAHUL BHARTI)
JUDGE

SRINAGAR
12.11. 2026
"Opinder"