Serial No.05
Regular Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

Reserved on : 05.11.2026
Pronounced on : 17.11.2026
Uploaded on : 18.11.2026
Whether the operative part or full judgment is pronounced: Full

LPA No. 101/2026 in [HCP No. 85/2025]

AKASH AHMAD LONE TH. HIS FATHER. …Appellant/Petitioner(s)

Through: Mr. G.N. Shaheen, Advocate with Mr. Asif Nabi, Advocate.

Vs.

UT OF J&K AND OTHERS. ...Respondent(s)

Through: Mr. Jahangir Dar GA.

CORAM:
HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER
17.11.2026

Sanjeev Kumar 'J':

01. This intra-court appeal under Clause 12 of the Letters Patent filed by the appellant is directed against an order and judgment dated 8th of May, 2026, passed by a Learned Single Judge of this Court [("the writ court")] in HCP No. 85 of 2025, titled *Akash Ahmad Lone versus Union Territory of Jammu and Kashmir and Others*, whereby the writ court has dismissed a Habeas Corpus petition filed by the appellant to assail his detention ordered by the District Magistrate, Pulwama, vide

its order bearing No. 14/DMP/PSA/25, dated 30th of April, 2025.

02. The impugned judgment has been challenged by the appellant primarily on the ground that the writ court has not appreciated that there was total non-application of mind on the part of the detaining authority to arrive at the satisfaction that the detention of the appellant was necessitated to prevent him from indulging in activities prejudicial to the security of the State, and that the writ court also failed to appreciate that the right of the appellant to make an effective representation against his detention was impaired because of the supply of grounds of detention which were vague, indefinite, and without material particulars.

03. Per contra, learned counsel appearing for the respondents would urge that all the grounds of challenge urged on behalf of the appellant have been duly considered by the writ court, and the writ court has, by reference to the original detention record produced before it, come to the conclusion that all procedural formalities and constitutional safeguards were adhered to by the detaining authority, and therefore there was no warrant for interfering with the order of detention impugned in the writ petition.

04. Having heard learned counsel for the parties and perused the record, we are of the considered opinion that the judgment passed by the writ court is not sustainable in law, in that the

writ court has not clearly appreciated the fact that the grounds of detention served upon the appellant were devoid of any definite particulars enabling the appellant to make an effective representation.

05. A quick look at the grounds of detention served upon the appellant would show that there is reference to an activity attributed to the appellant that took place in the year 2023. It is alleged that one militant, namely Yasir Parray, with the help of one Pakistani handler, namely Ilyas Pakistani, was contemplating to bring weapons in his truck from Gurdaspur, Punjab, and that the appellant rendered assistance and logistic support to them, like providing food, shelter, and other information about the movement of police and security forces. There is nothing more stated in the grounds of detention as to whether Yasir Parray ever moved to Punjab and even tried to bring weapons in his truck to the State of Jammu and Kashmir. Whether or not there is any report or FIR registered in any police station is also not forthcoming from the grounds of detention. The allegations which pertain to the year 2023, besides being vague and indefinite, were also stale, in that neither any case was registered against the appellant in the year 2023 for his alleged activities, nor was he taken under preventive detention under the J&K Public Safety Act.

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06. There is also reference to the appellant having been taken in preventive custody on 31st of October, 2024, and 11th of April, 2025 under Section 126 BNSS, in which he was probably asked to execute bonds for keeping peace and good behavior. There is, however, nothing in the grounds of detention to indicate that after the appellant submitted the bonds for keeping peace and good behavior, he again indulged in any unlawful activity prejudicial to the security, integrity, or sovereignty of the State.

07. There is only a bald allegation that the appellant was working as an Over Ground Worker (OGW) and providing logistic support like shelter, food, and transportation, etc., to the militants. Not even a single instance has been mentioned as to where, when, and to whom such support was ever provided. There is no reference even to intelligence inputs received from any quarter.

08. Viewed thus, it can be safely said that the grounds of detention, on the basis of which the appellant was taken in preventive detention, are totally vague, indefinite, and lacking material particulars. It is because of such vague, indefinite, ambiguous, and insufficiently specific grounds that the appellant has been deprived of his right to make an effective representation to the competent authority against his detention.

09. The constitutional requirement envisaged under Article 22(5) of the Constitution of India is not merely that the detenue should be informed of the grounds of detention, but the grounds of detention must be communicated with sufficient clarity and particulars to enable the detenue to understand the allegations and effectively controvert them. The grounds would be vague, indefinite, and ambiguous if they do not disclose the specific date, time, and place of the alleged activities; where the nature and particulars of the alleged prejudicial activities are not indicated; or where the specific role attributed to the detenue with sufficient clarity is not indicated.

10. In the instant case, we have, on the reading of the grounds of detention, come to a conclusion that the grounds of detention were general in nature and did not indicate the material particulars constituting activities attributed to the appellant and perceived by the detaining authority as prejudicial to the interest of the security of the State.

11. In the case of *Mohammad Yousuf Rather versus State of Jammu and Kashmir*, AIR 1979 Supreme Court 1925, a three-judge bench of the Hon'ble Supreme Court enunciated the principle underlying Article 22(5) of the Constitution in the following words:

"A law providing for preventive detention and action taken under such a law, to pass muster, have to satisfy the requirements of both Articles 19 and 22 of the Constitution of India. The interpretation of Article 22(5) consistently adopted by this Court is, perhaps, one of the outstanding contributions of the Court in the cause of human rights. The law is now well settled that a detenue has two rights under Article 22(5) of the Constitution: (1) to be informed, as soon as may be, of the grounds on which the order of detention is based, that is, the grounds which led to the subjective satisfaction of the detaining authority, and (2) to be afforded the earliest opportunity of making a representation against the order of detention, that is, to be furnished with sufficient particulars to enable him to make a representation which, on being considered, may obtain relief to him. The inclusion of an irrelevant or non-existent ground among other relevant grounds is an infringement of the first of the rights, and the inclusion of an obscure or vague ground among other clear and definite grounds is an infringement of the second of the rights. In either case, there is an invasion of the constitutional rights of the detenue entitling him to approach the Court for relief. The reason for saying that the inclusion of even a single irrelevant or obscure ground among several relevant and clear grounds is an invasion of the detenue's constitutional right is that the Court is precluded from adjudicating upon the sufficiency of grounds, and it cannot substitute its objective decision for the subjective satisfaction of the detaining authority..."

12. From the above exposition of law, it is evident that the test is whether the detenue was placed in a position to meaningfully and effectively controvert the allegations, and not merely whether the grounds were physically served. It is thus imperative that the grounds of detention must contain sufficient particulars and relevant material so as to enable the detenue to understand the basis of his detention and to effectively controvert the same. Where the allegations are couched in vague, indefinite, or general terms without disclosing the necessary particulars of the alleged activities, the detenue is left guessing as to the precise allegations which he is required to meet. Such a situation would necessarily frustrate the very object of affording an opportunity to the detenue to make a representation and would render the constitutional safeguard illusory. The inevitable consequence would be an infringement of the fundamental right granted under Article 22(5) of the Constitution, thereby vitiating the order of detention.

13. Viewed thus, we find merit in this appeal, and the same is accordingly ***allowed***. The judgment impugned passed by the writ court is set aside. The detention of the appellant made by the District Magistrate, Pulwama, vide order No. 14/DMP/PSA/25 dated 30th of April, 2025, is held bad and quashed. Respondents shall release the detenue forthwith from preventive detention if not required in any other case.

(MOHD YOUSUF WANI) **(SANJEEV KUMAR)**
JUDGE **JUDGE**

SRINAGAR
17.11.2026
"Shaista-PS"

Whether the Judgment is Speaking *Yes*
Whether the Judgment is Reportable *Yes*

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