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

Reserved on: 05.11.2026
Pronounced on: 20.11.2026

Uploaded on: 20.11.2026

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

HCP No.215/2025

RASHID BASHIR PIR

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

Through: - Mr. I. Sofi, 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) Impugned in this petition is the detention order bearing No. 19-DMK/PSA of 2025 dated 03.05.2025, issued by District Magistrate, Kupwara, whereby the detenue, namely, **Rashid Bashir Pir**, has been placed under preventive detention for preventing him from indulging in the activities which are detrimental to the security of the UT of Jammu & Kashmir.

2) In the petition, it has been contended that the detention of the detenue is in violation of the provisions of the Constitution and J&K Public Safety Act. It has 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. It has also been contended that the detaining authority has not applied its mind independently while passing the impugned order and that the grounds of detention are verbatim reproduction of dossier. It has been stated that the impugned order has been passed on the basis of stale grounds. It has also been contended that the petitioner had made a representation before the respondents but the same has not been considered by them as no result of consideration has been conveyed to the petitioner.

3) The respondents, in their counter affidavit, have contended that while issuing the impugned detention order, all the statutory requirements and constitutional guarantees have been fulfilled and complied with by the detaining authority. It is pleaded that the detention order and grounds of detention along with the material relied upon by the detaining authority were handed over to the detenue and the same were read over and explained to him. It has been further contended that the detenue was informed that he can make a representation to the government as well as to the detaining authority against his detention. It is also averred in the reply affidavit that all statutory requirements and constitutional guarantees have been fulfilled and complied with by the detaining authority. The respondents have produced the detention record to lend support to the stand taken in the counter affidavit.

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

5) Learned counsel for the petitioner, while seeking quashment of the impugned order, projected various grounds but his main thrust, during the course of arguments, was on the ground that the grounds of detention are vague, cryptic lacking in material particulars, which prevented the detenue from making an effective and suitable representation against his detention

6) In the above context, it will be profitable to extract the relevant portions of the grounds of detention, which read thus:

> *"....As per recent reports received from sister agencies, you have again indulged in subversive activities...."*
>
> *"....you have been involved in activities inimical to the security of the UT of Jammu & Kashmir and in view of the police assessment that the ordinary punitive law of the land is not sufficient to curb your subversive activities....."*

7) A perusal of the above quoted extracts of the grounds of detention clearly shows that the same are vague lacking in material particulars. In the grounds of detention, the details of alleged subversive and inimical activities and the particulars of the period when the detenue again allegedly indulged therein are also not given in the grounds of detention. Thus, the grounds, being vague lacking in material particulars, the detenue could not have made an effective representation

against his detention. Article 22(5) mandates that each ground for detention must be individually specified so as to ensure transparency and accountability in the detention process. The grounds must not be vague, indefinite or general. Vague allegations make it impossible for the detenu to understand the reasons and effectively challenge the detention.

8) A Division Bench of this Court in the recent case titled "**Imran Rashid Rather** vs. **UT of J&K**" **2024 LiveLaw (JKL) 351** has, while deliberating upon the effect of vagueness of the grounds of detention on the subjective satisfaction of the detaining authority, observed as under:-

> *"Therefore, this Court holds that vague and non-specific grounds of detention firstly, violates the fundamental right to life and personal liberty of the detenue under article 21 of the constitution as it summarily curtails the liberty of the citizen based on the subjective satisfaction of the executive which is an exceptional power as against the general law relating to arrest and detention. Secondly, it deprives the detenue of giving a specific rebuttal to the grounds of detention which may satisfy the detaining authority or the Government that his detention is unlawful and compels him to answer the grounds of detention as "it is incorrect" or "it is false" etc. Thirdly, vague and generalised grounds in the order of detention, smacks of arbitrariness on the part of the detaining authority rendering the subjective satisfaction arrived at as violative of article 14 of the constitution and fourthly, vague and non-specific grounds raise the impression that the same has been done deliberately in order to deprive the detenu of giving a precise rebuttal. Malafide in fact may be difficult to establish as they must be pleaded with specific facts, but the lack of bonafides 1State of Bihar Vs. P.P. Sharma,1992 Supp(1) SCC 222, paragraph 49 - State of Punjab Vs. Gurdial Singh, (1980) 2 SCC 471, paragraph 9 - Pooja Batra Vs. Union of India and others, (2009) 5 SCC 296, paragraphs 18,40 and 41 may be presumed where the executive act results in the*

deprivation of personal liberty from a detention order based on vague grounds. In such cases, the lack of bonafides is to be presumed due to a cavalier or casual exercise of the authority to detain the citizen without any specific ill will or personal animosity. The lack of bonafides is on account of failure to take due care and act without introspection, blindly on the report of the SP without insisting on supporting material which justifies the deprivation of liberty."

9) From the above analysis of the law, it is manifest that vagueness of grounds of detention strikes at the root of the subjective satisfaction of the detaining authority thereby vitiating the order of detention. On this ground alone, the impugned order of detention is liable to be set aside.

10) For the afore-stated reasons, the petition is allowed and the impugned detention order is quashed. The respondents are directed to release the petitioner from the preventive custody forthwith, provided he is not required in connection with any other case.

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

(Sanjay Dhar)
Judge

Srinagar:
20.11.2026
"Bhat Altaf-Secretary"

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