

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

HCP No. 112/2025

Date of pronouncement: 18.12.2025

Date of uploading: 22.12.2025

Yaqoob Hussain

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

S/o Mohd. Aslam
R/o Bagyal Dhara, Tehsil Haveli,
District Poonch
A/p lodged in District Jail Udhampur
Through his father
Mohd Aslam
S/o Mir Mohd
Father of Yaqoob Hussain
R/o Bagyal Dhara, Tehsil Haveli,
District Poonch.

Through: Mr. Azmat Ullah Parihar, Advocate

vs

1. UT of J&K th. Additional Chief Secy. to
Govt. Home Deptt, Civil Secretariat
Jammu/Srinagar.
2. District Magistrate, District Kathua.
3. Senior Superintendent of Police, District
Kathua.
4. In-charge/Superintendent District Jail,
Udhampur.

..... Respondent(s)

Through: Mr. Suneel Malhotra, GA

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE
ORDER (ORAL)

1. The petitioner, in the instant petition, filed under Article 226 of the Constitution of India, seeks quashing of detention order No. PSA-150 dated 18.03.2025 [for short “**the impugned order**”] passed by District Magistrate, Kathua- respondent 2 herein [for short “**the Detaining**”]

Authority”] under and in terms of the provisions of Jammu and Kashmir Public Safety Act, 1978 [for short “**the Act**”].

2. The petitioner has challenged the impugned order on multiple grounds urged in the petition.
3. Counter affidavit to the instant petition has been filed, wherein the petition is being opposed on the premise that after due consideration of the dossier received from Senior Superintendent of Police, Kathua-respondent 3 herein on 30.01.2025, in terms whereof the petitioner was found continuously and repeatedly involved in criminal activities of bovine smuggling, being prejudicial to the maintenance of public order and was as such, ordered to be detained under preventive detention keeping in view his involvement in multiple FIRs registered against him in this regard. It is also stated that upon detaining the petitioner in terms of the detention order, the grounds of detention, detention warrants and all other relevant documents, comprising of 50 leaves were furnished to the petitioner and the grounds, as well as the order of detention were read over to him in Dogri/Urdu language, which he fully understood, besides informing him that he can make a representation against his detention, which representation was never made by the petitioner. It is next stated that on 26.03.2025, the Government approved the detention order whereas the same came to be confirmed by the Government on 09.05.2025. It is lastly stated that in the process of detaining the petitioner under preventive law, all

statutory provisions came to be complied with and constitutional safeguards adhered to.

Heard learned counsel for the parties and perused the material available on record.

4. According to the learned counsel for the petitioner, the impugned order admittedly has been passed by the Detaining Authority owing to the alleged involvement of the petitioner in the FIRs, referred in the grounds of detention, pertaining to the offences registered under and in terms of the Prevention of Cruelty to Animals Act, 1960 [for short “**the Act of 1960**”] and that by no sense of imagination, the commission of the said alleged offences by the petitioner constituted an activity pre-judicial to the maintenance of the public order and thus there was no occasion and reason for the Detaining Authority to detain the petitioner under Preventive Detention. Learned counsel, in this regard, would heavily rely upon the judgment passed by the Co-ordinate Bench in case titled as “*Rafiq Vs. UT of J&K & Ors.*” being HCP No. 27/2025 decided on 05.08.2025.

5. On the contrary, learned counsel for the respondents, while rebutting the submissions of learned counsel for the petitioner would submit that the petitioner is a habitual offender and his preventive detention came to be ordered on account of his involvement in multiple cases registered under the Act of 1960 and that the said involvement of the petitioner, *per se*, in view of the dossier submitted by the SSP concerned to the Detaining Authority besides constituting a criminal

offence, also had been found to be a potential threat of creating communal disharmony in the area necessitating his detention under preventive law. Learned counsel, in this regard, placed reliance on the judgment of a Co-ordinate Bench passed in case titled as “*Shakeel Mohd. Vs. U. T. Of J&K & Ors.*” being HCP No. 55/2024 decided on 21.11.2024.

6. It is significant to mention here that the impugned order admittedly came to be passed on 18.03.2025 by respondent 2 upon receipt of dossier from the SSP concerned on 28.02.2025 (though in the counter affidavit, the date of receipt of dossier is 30.01.2025). It is also an admitted fact that the detention order came to be executed against the petitioner on 29.04.2025, thus manifestly suggesting that the impugned order has been passed after a considerable period of time and also have had been executed after more than a month without specifying therein the detention record produced by the counsel for the respondents or else in the counter affidavit filed to the petition any reason as to why the detention order came to be passed belatedly and even could not be executed immediately after its issuance with due diligence and promptness, in that it is the settled law laid down by the Apex Court in case titled as “*K. P. M. Basheer Vs. Union of India and Ors.*” reported in 1992 Vol 2 SCC 295 that an order of detention cannot sustain without the live and proximate link with the grounds of detention and that the purpose of detention is snapped on account of undue and unreasonable delay in securing and detaining the detenu.

It is pertinent to mention here that it is nowhere contended by the respondents in the counter affidavit filed to the petition that the petitioner either avoided the execution of order or that he was absconding. Therefore, under these circumstances, it cannot, but be said, that the proximate link between the order of detention and the purpose of detention on account of unexplained and undue delay in execution has vitiated the impugned order.

7. Besides the above patent infirmity, it is also noticed from the detention record, as also the reply affidavit filed by the respondents to the petition that it is nowhere spelt out or indicated that on account of the commission of offences by the petitioner under the Act of 1960, any incident of communal disharmony got resulted in the area and in the process same became an eminent threat to the maintenance of public order thus necessitating the preventive detention of the petitioner in this regard. This Court is in full agreement with the observations and conclusions drawn by the Co-ordinate Bench in the case of Rafiq (supra) as no reason to take a view different than that, as such, this Court is persuaded to follow the said judgment passed by the Co-ordinate Bench as against the view expressed by the Co-ordinate Bench in the case of Shakeel Mohd. (supra).
8. Viewed thus, for aforesaid reasons, the instant petition succeeds, as a consequence whereof, the impugned order No. PSA-150 dated 18.03.2025 is quashed with a direction to the respondents, including

the concerned jail authority to release the petitioner from preventive detention unless is required in any case.

9. The detention record produced by the counsel for the respondents is returned back in the open Court.
10. **Disposed of.**

(Javed Iqbal Wani)
Judge

Jammu
18.12.2025
Vishal Sharma

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

