

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(THROUGH VIRTUAL MODE)**

Case No: LPA No.206/2025

*Reserved on: 11.12.2025
Pronounced on: 29.01.2026
Uploaded on: 29.01.2026*

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

Huzaif Ahmad Dar

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

Through: Mr. Asif Ali, Advocate.

v/s

Union Territory of J&K and
others

Through: Mr. Illyas Nazir, GA

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

JUDGMENT

PER OSWAL-J

1. The appellant was detained pursuant to an order dated 20.04.2024, issued by respondent No. 2 under Section 8 of the Jammu and Kashmir Public Safety Act, 1978 (hereinafter referred to as "*the Act*"). The said detention order was challenged by the appellant through HCP No. 191/2024, titled "*Huzaif Ahmad Dar v. Union Territory of J&K and Others*". However, the appellant remained

unsuccessful, as the Habeas Corpus Petition preferred by him was dismissed by the learned Writ Court vide judgment dated 07.08.2025.

2. Being aggrieved of judgment dated 07.08.2025, the appellant has assailed the impugned judgment, *inter alia*, on the grounds that the learned Writ Court has failed to properly appreciate and consider the grounds raised in the petition. It is contended that the alleged last activity attributed to the appellant pertains to the year 2022 in connection with FIR No. 219/2022, in which the appellant was already released owing to the absence of any incriminating evidence against him. It is further contended that the order of detention has been passed in an arbitrary and mechanical manner, clearly demonstrating non-application of mind on the part of the detaining authority, as there existed no valid ground to detain the appellant under the provisions of the Act.
3. Learned counsel for the appellant has submitted that the order of detention has been passed on vague and unsustainable grounds, however, the learned Writ Court has failed to appreciate the same in its proper perspective. It is further argued that the learned Writ Court also did not take into consideration that there was no live and proximate link between the last alleged illegal activity attributed to the appellant and the object sought to be achieved by passing the order of detention.
4. *Per contra*, Mr. Illyas Nazir, learned Government Advocate, submitted that the order of detention was passed after due consideration of the activities of the appellant, which were found to be prejudicial to the security of the State. It is further submitted that all

the procedural as well as constitutional safeguards were strictly followed and complied with at the time of issuance as well as execution of the detention order. He contended that the learned Writ Court has rightly appreciated and adjudicated the controversy involved; therefore, this appeal being devoid of any merit deserves to be dismissed.

5. Heard learned counsel appearing for the parties and perused the record.
6. The contention raised on behalf of the appellant is that the order of detention is founded on vague grounds and that the grounds, if any, relied upon for detaining the appellant are stale in nature.
7. A bare perusal of the detention record reveals that a dossier was prepared by respondent No. 3, wherein reference was made to FIR No. 219/2022 registered under Sections 120-B and 130 of the IPC and Sections 18 and 39 of the Unlawful Activities (Prevention) Act, with Police Station Anantnag. In the said FIR, the appellant was arrested but subsequently released on his personal bond.
8. A review of the dossier reveals that the reference made therein is confined only to the contents of the aforesaid FIR and through the medium of the dossier, respondent No. 3 requested respondent No. 2 to detain the appellant under the provisions of the Act. Respondent No. 2 upon perusal of dossier and the report submitted by the Dy. Superintendent of Police (Headquarters), Anantnag, formulated the grounds of detention and ordered the detention of the appellant under the Act vide order dated 20.04.2024. Even in the grounds of detention,

respondent No. 2 has made reference to FIR No. 219/2022, in which the appellant was released owing to insufficiency of evidence.

9. While the dossier and the grounds of detention assert that the appellant continued to engage in activities warranting detention following his release; these claims lack specific particulars. The allegations are entirely bald and vague, merely stating that the appellant remained in contact with 'overground workers' without disclosing their identities or the nature of such contact. Furthermore, no material has been placed on record to substantiate these claims. Significantly, Respondent No. 2 failed to specify a single illegal activity attributed to the appellant post-release. Consequently, the detention order is not only founded on vague grounds but also serves as a clear indication of non-application of mind by the detaining authority.

10. Notably, the respondent's own records, the dossier and grounds of detention concede that the appellant has been 'silent' after 13th September 2023. Once the detaining authority admits to a total cessation of activity, the jurisdictional basis for invoking preventive detention disappears. Without a current or proximate threat to security, the detention is arbitrary and legally unsustainable.

11. It is a well-settled principle of law that preventive detention cannot be sustained on the basis of stale, vague, or indefinite allegations. The detaining authority is under a mandated constitutional obligation to furnish clear, precise, and proximate grounds. This requirement is a prerequisite to enabling the detenu to exercise his/her right to make an 'effective representation,' a fundamental safeguard guaranteed under

Article 22(5) of the Constitution of India. Reliance is placed upon the judgment of the Supreme court in “**Jahangirkhan Fazalkhan Pathan V. Police Commissioner, Ahmedabad and another**”, (1989) 3 SCC 590, wherein it has been held that the order of detention passed on vague grounds deprives the petitioner of his right to make an effective representation against the order of detention.

12. In case titled ‘**Saeed Zakir Hussain Malik vs. State of Maharashtra**’ (2012) 8 SCC 233, the Hon’ble Supreme Court has held as under:

“27. As regards the second contention, as rightly pointed out by learned counsel for the appellant, the delay in passing the detention order, namely, after 15 months vitiates the detention itself. The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each case. Though there is no hard and fast rule and no exhaustive guidelines can be laid down in that behalf, however, when there is undue and long delay between the prejudicial activities and the passing of detention order, it is incumbent on the part of the court to scrutinize whether the Detaining Authority has satisfactorily examined such a delay and afforded a reasonable and acceptable explanation as to why such a delay has occasioned.

28. It is also the duty of the court to investigate whether casual connection has been broken in the circumstance of each case. We are satisfied that in the absence of proper explanation for a period of 15 months in issuing the order of detention, the same has to be set aside. Since, we are in agreement with the contentions relating to delay in passing the Detention Order and serving the same on detainee, there is no need to go into the factual details.”

13. Tested on the touchstone of the aforesaid legal principles, the impugned detention order, founded on vague, stale, and unsupported material, cannot be sustained.

14. We have carefully examined the judgment rendered by the learned Writ Court and are of the considered view that the issues noticed and

discussed hereinabove have not been adequately addressed and, in fact, have escaped the attention of the learned Writ Court.

15. In light of the above, we are of the considered view that the judgment impugned in this appeal is not sustainable in the eyes of law and accordingly, the same is set aside. Resultantly, order of detention bearing Order No. 09/DMA/PSA/DET/2024 dated 20.04.2024, issued by the District Magistrate, Anantnag (respondent No. 2) under Section 8 of the Jammu and Kashmir Public Safety Act, 1978, being unsustainable in law is, accordingly, quashed. The appellant shall be released forthwith, if not required in connection with any other case.
16. The record be returned to the learned counsel appearing for the respondents.
17. **Disposed of** as above.

Jammu
29.01.2026
Madan Verma-Secy



(Rajnish Oswal)
Judge

(Arun Palli)
Chief Justice