

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

Reserved on: 29.01.2026

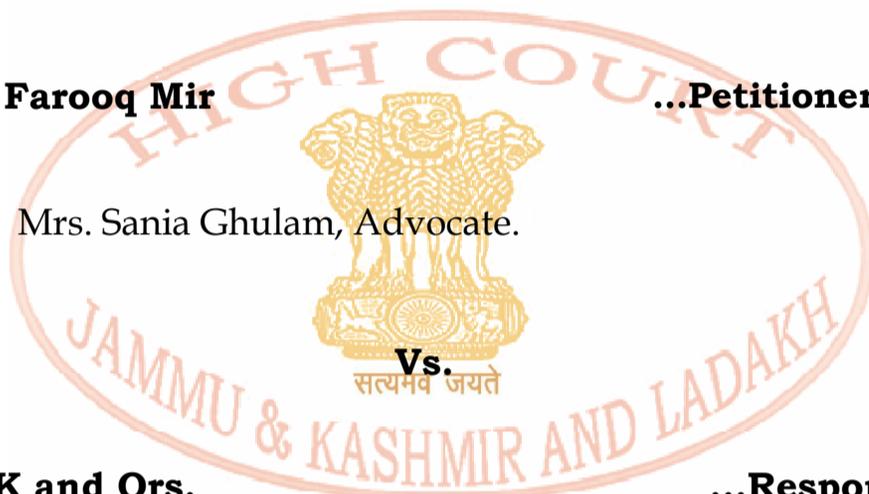
Pronounced on: 24.02.2026

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HCP No.97/2025

Muzaffar Farooq Mir ...Petitioner(s)

Through: Mrs. Sania Ghulam, Advocate.



UT of J&K and Ors.

...Respondent(s)

Through: Mr. Jahingir Dar, GA.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

Judgment

1. This is a writ of habeas corpus which came to be preferred on **14.05.2025** by the petitioner- Muzaffar Farooq Mir (aged 36 years) a resident of Shahzadpora Dangerpora, Tehsil B.K Pora, District Badgam acting through his father- Farooq Ahmad Mir.
2. The petitioner is undergoing detention custody with effect from **05.05.2025** being detained in District Jail, Jammu.

3. The detention of the petitioner came to be ordered by the respondent No.2- District Magistrate Srinagar in terms of an Order **No.DMS/PSA/15/2025** dated **03.05.2025**, purportedly acting under section 8 of the Jammu & Kashmir Public Safety Act, 1978, by reckoning that the petitioner's state of personal liberty is prejudicial to the maintenance of security of the State, thus, warranting its curtailment.
4. A case for preventive detention custody of the petitioner was actually mooted by Senior Superintendent of Police (SSP) Srinagar, who vide his communication No. **LGL/Det/2025/14226-29** dated **29.04.2025** submitted a dossier and other connected documents to the respondent No.2- District Magistrate Srinagar, thereby projecting the alleged objectionable and prejudicial state of activities of the petitioner, in the face of which the security of State was likely to be prejudiced.
5. For the purpose of passing the detention order No. **DMS/PSA/15/2025** dated **03.05.2025**, the respondent No.2- District Magistrate Srinagar, by

reading of the dossier as a foundational material, drew grounds of detention for drawing purported subjective satisfaction for ordering the preventive detention of the petitioner.

6. In the grounds of detention so formulated, the respondent No.2- District Magistrate Srinagar refers that an extremist ideology has a strong hold on the petitioner and that he is in constant touch with some people who encouraged him to engage in anti-national activities on the basis of which the petitioner got motivated and indulged in anti-national activities by inciting the Public particularly the young people of the area and the surrounding areas to engage them in illegal activities. The petitioner within a short span of time is said to have become an incorrigible anti-national element of the area.

7. Drawing further from the dossier reference of the Senior Superintendent of Police (SSP) Srinagar, the respondent No.2- District Magistrate Srinagar, refers the petitioner to be a hardcore active entity in the area posing threat to the locality including educational institutions, business establishments

and Government offices and by the given ideology of the petitioner the return of normalcy to the Kashmir valley was reckoned to be getting resisted and that there was a consistent attempt by the ideology of the petitioner to destabilize the Union Territory of Jammu and Kashmir through unlawful activities.

- 8.** The petitioner is said to have come into contact with active terrorists and OGWs of banned outfit LeT, motivating the petitioner to work for the outfit as an over ground worker for providing logistic support. The petitioner is alleged to have been sharing all sensitive information regarding movement of Police and Security Forces in the area.
- 9.** By reference to FIR **No.185/2021** of Police Station Saddar for alleged commission of offences under section **307-IPC, 13/38 UAPA, 7/27 A.Act**, the petitioner is said to have been arrested and involved in the case to be bailed out later on, but still remaining bent upon the ways of anti-national and unlawful activities.
- 10.** In the grounds of detention, the petitioner's previous preventive detention is also referred to

build up case for second time preventive detention of the petitioner taking place by virtue of the detention Order **No. DMS/PSA/15/2025** dated **03.05.2025**.

11. In the name of latest adverse reference to the petitioner, Patrol Book entries and GD report of Police Station, Nowgham came to be cited in the grounds of detention by the respondent No.2-District Magistrate Srinagar. Patrol Book entry dated **26.04.2025** and GD report also of **26.04.2025** came to be cited before coming to the final part of the grounds of detention that the alleged state of activities of the petitioner are reckoned to be adverse so far as **maintenance of public order** is concerned, but finally the activities are reckoned to be highly **prejudicial to the security of the State** and, therefore, warranting passing of detention order against him.

12. With passing of preventive detention order **No. DMS/PSA/15/2025**, dated **03.05.2025** the petitioner came to be arrested on **05.05.2025**

and handed over to the custody of the District Jail, Jammu.

13. Within ten days of his detention, the institution of the present writ petition by the petitioner came to take place on **14.05.2025**.

14. Following the purported approval by the Government of UT of J&K of the detention order **No. DMS/PSA/15/2025**, the Advisory Board's opinion is said to have been solicited by the Government upon getting which by virtue of a Government Order **No. Home/PB-V/1080/2025** dated **02.06.2025**, the preventive detention of the petitioner was confirmed to last for periodic duration/s of detention.

15. The petitioner in his writ petition has assailed the exercise of jurisdiction at the end of the Senior Superintendent of Police (SSP), Srinagar followed by the respondent No.2- District Magistrate, Srinagar and lastly on the part of the Home Department, Government of Jammu and Kashmir, UT of J&K, on the basis of the grounds as set out in paragraph- 6 (a to n).

16. The counter affidavit to the writ petition came to be filed on **04.08.2025** by Mr. Akshay Labroo (IAS)-District Magistrate Srinagar. The averments in the counter affidavit follow the script of the grounds of detention without any shade of difference. The counter affidavit is unaccompanied with any annexure whatsoever as if filing of a counter affidavit in a habeas corpus writ petition bears no sense of responsibility on the part of the detaining authority to support the averments in the counter affidavit with corresponding serve of documents therewith.

17. This manner of filing of counter affidavit is meant to be a risk to stay on the side of preventive detention order making authority when defending the detention order in a constitutional court of law as is in the present case and, therefore, the respondents cannot expect a constitutional court to extend any courtesy and concession in favour of UT of Jammu and Kashmir and District Magistrate concerned in overlooking the casualness in the matter of filing counter affidavit.

18. The preventive detention order of the petitioner is fundamentally flawed and that is by the state of application of mind on the part of the respondent No.2- District Magistrate, Srinagar in scripting and signing the very detention order reflecting the pedantic level indulgence on the part of the respondent No.2- District Magistrate, Srinagar.

19. In the grounds of detention, previous detention of the petitioner has been referred. The respondent No.2- District Magistrate Srinagar refers to the previous detention of the petitioner by drawing the reference to the order as follow:

“Order No. DMS/PSA/151/2022 dated **15.11.2024”**. If the respondent No.2- District Magistrate Srinagar is not in a position to re-read the draft of his grounds of detention to come across with a patent error of mention of date of previous detention order of the petitioner then the application of mind of the respondent No.2- District Magistrate, Srinagar is not worth trusting that in passing second time detention order of the petitioner due application of mind

was taking place from his end. Previous detention order of the petitioner was **“Order No. DMS/PSA?151/2022 dated 15.11.2022”**.

20. What is a casual for the District Magistrate Srinagar is a causality to the fundamental right of the personal liberty of the petitioner which is further reflected on the grounds that by reckoning the alleged activities of the petitioner being adverse of the Government to the maintenance of public order, the quantum leap to order the detention of the petitioner by reference to the same activity being prejudicial to the security of the State is reflective of sense of loss of legal distinction at the end of the respondent No.2- District Magistrate Srinagar.

21. Nothing can be more absurd than the inherent contradiction so obtaining in the grounds of the detention formulated by the respondent No.2- District Magistrate Srinagar on the basis of which the preventive detention order came to be passed against the petitioner

22. In the light of the aforesaid facts and circumstances, the preventive detention of the

petitioner is held to be illegal which warrants quashment of detention Order **No. DMS/PSA/15/2025** dated **03.05.2025** passed by respondent No.2- District Magistrate Srinagar read with consequent approval/confirmation/extension order from the end of the Government.

23. The petitioner is, thus, ordered to be restored to his personal liberty by his release from the concerned jail for which the Superintendent concerned Jail to enlarge the petitioner free to his personal liberty.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

24.02.2026

"Opinder"

Whether the judgment is speaking:	Yes
Whether the judgment is reportable:	Yes