

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

HCP No. 155/2024

Reserved On: 02.02.2026

Pronounced On: 05.02.2026

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

Shabir Ahmad Dar, Aged 28 years

S/O: Late Ab. Gani Dar

R/O: Dar Mohalla Sunbrari, Tehsil

Kokernag, District Anantnag

through his brother Nisar Ahmad

Dar

S/O: Late Ab. Gani Dar

R/O: Dar Mohallah Sunbrari, Tehsil

Kokernag

...Petitioner(s)

Through: Mr. Shabir Ahmad Dar, Advocate

Vs.

**1. Union Territory of J&K through
Principal Secretary to Govt. Home
Department, Civil Secretariat,
Srinagar/Jammu.**

2. District Magistrate, Anantnag

**3. Senior Superintendent of Police,
Anantnag**

**4. Senior Superintendent Central
Jail, Kotbhalwal, Jammu.**

...Respondent(s)

Through: None

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

1. The petitioner-Shabir Ahmad Dar, aged 28 years acting through his brother-Nisar Ahmad Dar, has petitioned this Court with present writ petition filed on **15.05.2024** being aggrieved of preventive detention custody inflicted upon him from the end of respondent No. 2-District Magistrate, Anantnag, acting under the Jammu and Kashmir Public Safety Act, 1978.

2. From the date of institution of the writ petition, the petitioner is thus seeking from this Court restoration of his lost personal liberty by awaiting in trust judgment of this Court.

3. The Senior Superintendent of Police (SSP), Anantnag, by virtue of a communication No. **CS/71/2024/791 2-18** dated **17.04.2024**, submitted a dossier to the respondent No. 2-District Magistrate, Anantnag thereby setting up a case for seeking preventive detention of the petitioner with an aim to prevent the petitioner from indulging in alleged

activities reckoned to be prejudicial to the security of the State/Union Territory of J&K.

4. On the basis of the dossier so submitted against the petitioner by the Senior Superintendent of Police (SSP), Anantnag, the respondent No. 2-District Magistrate, Anantnag, by purported application of mind on his part, came to formulate grounds of detention stating therein that petitioner at the relevant point of time being working in Darul Ahiya-Aloom, Bindoo Madrassa, Kokernag and was active on social media platform via Facebook, WhatsApp, and Snapchat etc. By reference to **FIR No. 219/2022** dated **02.07.2022** registered by the Police Station, Anantnag for alleged commission of offences under sections 120-b, 130 IPC read with section 18, 39 of Unlawful Activities (Prevention) Act, 1967, the petitioner was related to be involved along with others named in said case. From the persons booked by reference to said FIR, it is said to have been disclosed by an accused person namely Rouf Ahmad Dar R/O Bumdoora, Kokernag that for the last two years he was remaining in close contact with the petitioner and on that basis the petitioner was also picked up by the

Police Station, Anantnag for questioning, but due to insufficient evidence was released on a surety bond.

5. It is by reference to this purported backdrop that the respondent No. 2-District Magistrate, Anantnag came to frame grounds of detention to draw a subjective satisfaction therefrom that the petitioner's alleged state of activities were prejudicial to the security of the State/Union Territory of J&K and, therefore passed **Order No. 10/DMA/PSA/DET/2024** dated **20.04.2024** thereby ordering the petitioner's preventive detention under Section 8 of the Jammu & Kashmir Public Safety Act, 1978 directing his arrest for preventing the petitioner from acting in any manner prejudicial to the security of the State/Union Territory of Jammu & Kashmir and, thus, directed that the petitioner upon detention be lodged in Central Jail, Kothbhalwal.

6. Respondent No. 2-District Magistrate, Anantnag actually proceeded on a two leaf dossier of the Senior Superintendent of Police (SSP), Anantnag, accompanied with copies of FIR, statements and intelligence reports to order the detention of the petitioner.

7. Pursuant to the detention order, the respondent No. 2-District Magistrate, Anantnag by virtue of his communication No. **DMA/JC/PSA/2024/55-60** dated **20.04.2024** apprised the petitioner about passing of the detention order against him and his right to make a representation either to the respondent No. 2-District Magistrate, Anantnag or to the Government of Union Territory of J&K and also his right to be heard in person by the Advisory Board.

8. Following the arrest and detention of the petitioner taking place on **24.04.2024** when detention warrant came to be executed by **A.S.I Surinder Kumar No. 404/PL, EXK-021684** of Police Station, Bijbehara, approval to the preventive detention of the petitioner came to be accorded by the Government of Union Territory of J&K acting through its Home Department by issuance of Government Order No. **Home/PB-V/854-24** dated **29.04.2024**.

9. The petitioner's detention case was referred to the Advisory Board constituted under the Jammu & Kashmir Public Safety Act, 1978 for examination and opinion which came to be tendered by the Advisory Board thereby enabling the confirmation of the

preventive detention of the petitioner with issuance of a Government Order No. **Home/PB-V/1115 of 2024** dated **27.05.2024**, but before that could happen the petitioner came forward with the institution of the present writ petition on **15.05.2024** assailing his preventive detention on the basis of the grounds as set out in “**(A) to (K)**” in paragraph 5 of the writ petition.

10. In response to the writ petition, counter affidavit from the end of the respondents came to be submitted on **06.09.2024** through District Magistrate, Anantnag, Syeed Fakhrudin Hamid.

11. In their counter affidavit, the respondents, in particular the respondent No. 2-District Magistrate, Anantnag, have drawn reliance from the judgments of the Hon’ble Supreme Court of India in the cases of “**Senthamilselvi Vs. State of Tamil Nadu and Another, 2006(5) SCC 670; Gautam Jain Vs. Union of India and Anr., 2017 (1) JKL Vol. 1(SC), P1; Criminal Appeal No. 1064 of 2019 arising out of SLP(Crl) No. 5459/2019 titled Union of India and Anr. Vs. Dimple Happy Dhakad**”.

12. In addition, the respondents have cited the below mentioned citations in their counter affidavit which are reproduced as under:-

- ***Haradhan Saha Vs. State of West Bengal (1975) 3 SCC 198;***
- ***Union of India Vs. Dimply Happy Dhakad AIR, 2009 SC.***
- ***The Secretary to Government and Anr. Vs. Nabila and Anr. 2015 (12) SCC 127.***
- ***Senthamilselivi Vs. State of Tamil Nadu and Anr. 2006 (5) SCC 676.***
- ***Naresh Kumar Goyal Vs. Union of India and Ors. (2005) 8 SCC 276.***
- ***Mian Abdul Qayoom Vs. Union Territory of J&K LPA No. 28/2020 J&K High Court.***
- ***Gautam Jain Vs. Union of India and Anr. 2017(1) (SC) P-1.***

13. After having heard submission from both sides, this Court is of the opinion that the preventive detention slapped upon the petitioner is literally on the dictation of the Senior Superintendent of Police (SSP), Anantnag, with the respondent No. 2-District Magistrate, Anantnag, at no point of time ever exercising or applying his own independent

application of mind posing a bare ordinary reflection as to how came the petitioner, as a free citizen of India just by reference to **FIR No. 219/2022** in which also he did not figure as an accused or an undertrial, be cited as a reference point for the purpose of justifying so called apprehension about unmentioned, unREFERRED and unstated alleged activities on the part of the petitioner perceived and assumed to be prejudicial to the security of the State.

14. To put it simply, the petitioner has been subjected to preventive detention custody just by a blank reference on the part of the Senior Superintendent of Police (SSP), followed by equally bland application of mind on the part of the respondent No. 2-District Magistrate, Anantnag.

15. This Court has no hesitation in observing that the Jammu & Kashmir Public Safety Act, 1978, *viz-a-viz* the petitioner has been invoked by non-seriousness of standard with which even a motorist is not subjected to a routine traffic challan.

16. In view of the aforesaid, the preventive detention custody of the petitioner for whatsoever short

remainder period the same is meant to be is held to be illegal right from its inception and, therefore, the preventive detention order **No. 10/DMA/ PSA/ DET/2024** dated **20.04.2024** passed by the respondent No. 2-District Magistrate, Anantnag, read with the consequent approval/confirmation order by the Government of Union Territory of J&K, is hereby quashed.

17. The Senior Superintendent of the concerned Jail detaining the petitioner is directed to release the petitioner forthwith, if not required in any other case.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

05.02.2026

"Mir Arif"

- (I) Whether the judgment is reserved? Yes/No.
- (II) Whether the judgment is reportable? Yes/No.