

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

Reserved on: 26.02.2026

Pronounced on: 25.03.2026

HCP No. 226/2025

[REDACTED]

.....Petitioners

Through: Mr. Syed Sajad Geelani, Advocate

Vs.

Union Territory of J&K and Others

.....Respondents

Through: Mr. Ilyas Laway, GA.

Coram : HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

- 1.** Heard learned counsel for both sides.
- 2.** Perused the pleadings and also the detention record.
- 3.** The petitioner [REDACTED] a 19 years' young boy, acting through his mother [REDACTED] [REDACTED], petitioned this Court on **17.06.2025** with present writ of habeas corpus for seeking quashment of preventive detention order slapped upon him under the J&K Public Safety Act, 1978 with a purported end and objective to prevent him

acting in a manner prejudicial to the security of State/UT of J&K.

4. The respondent No.2-District Magistrate, Anantnag was approached by the Senior Superintendent of Police (SSP), Anantnag with a dossier submitted through a letter No. **CS/71/2025/7079-84** dated **13.05.2025** wherein a case was put up for seeking preventive detention custody of the petitioner on the alleged state of activities of the petitioner being reckoned by the District Police to be prejudicial to the security of the State.
5. The dossier so submitted by the Senior Superintendent of Police (SSP), Anantnag was eighteen pages compilation bearing purported recitals that the petitioner was a 12th Standard student who was preparing for **NEET** examination through Online mode when on **29.05.2023** the Police Station, Anantnag, acting on the docket of the Incharge Police Post, Janglat Mandi, Anantnag, came to be apprised about some unknown terrorists having attacked a non-local

labourer namely Deepak Kumar at Circus Amusement Park near GMC, Anantnag which led to the death of said victim thereby resulting in registration of an **FIR No.171/2023** under **Sections 302 IPC Sections 7/27 Indian Arms Act 1959, Sections 16, 18, 20, 39 of the Unlawful Activities (Prevention) Act, 1967** with the Police Station, Anantnag which undertook the investigation in which connection the petitioner was called for questioning to come up with a purported disclosure that the petitioner is using 'Iphone XS model' and is active user of Social Media of 'Instagram', 'Facebook', 'WhatsApp' and 'Telegram'.

- 6.** The petitioner is said to have disclosed that he had agreed for transporting the arms and ammunitions and in that regard had visited Bijbehara near Higher Secondary School for collecting one Pistol from one person namely Umer Amin Thoker. Said Pistol is said to have been used by the petitioner in carrying out the

alleged incident of firing upon the non-local person.

7. The petitioner, at the time of alleged commission of offence and his consequent booking therefor was a minor boy and, as such, was treated to be a Juvenile to be bailed out by virtue of an order dated **04.02.2025** of the Juvenile Justice Board, Anantnag, whereafter the petitioner is said to have been put under surveillance in the course of which the petitioner's alleged activities were reckoned to be sufficient enough to book him for preventive detention custody.

8. Except the alleged criminal act forming subject matter of said **FIR No.171/2023**, the petitioner's antecedents in the dossier are reporting nothing adverse, objectionable and questionable.

9. In connection with said **FIR No.171/2023** dated **29.05.2023**, the petitioner came to be taken into custody only to come out of that custody with passing of the order dated

04.02.2025 passed by the Juvenile Justice Board, Anantnag.

10. Thus, for almost a period of two years w.e.f., **29.05.2023** to **04.02.2025**, the petitioner had remained in a state of custody during which it cannot be said by any stretch of reference and claim that the petitioner was found indulgent or indulging in the state of activities prejudicial to the security of the State.

11. The petitioner earned his release from case custody with passing of an order dated **04.02.2025** by the Juvenile Justice Board, Anantnag but within a period of next three months, passing of preventive detention order No. **21/DMS/PSA/DET/2025** dated **14.05.2025** came to take place with consequent arrest and detention of the petitioner taking place on **18.05.2025**.

12. It is in this window period w.e.f., **04.02.2025** till **13.05.2025** when the Senior Superintendent of Police (SSP), Anantnag had the purported occasion to gather the alleged state of activities of

the petitioner to be reckoned as prejudicial to the security of the State so as to form basis for laying a dossier for seeking preventive detention of the petitioner under J&K Public Safety Act, 1978.

13. In his dossier, the Senior Superintendent of Police (SSP), Anantnag refers to the year of birth of the petitioner being 2005 at village Sherapora, Anantnag, early education of the petitioner from SAPHS (Sabir Abdullah Public High School) Dialgam, Anantnag up to 10th class and thereafter getting admission in the Government High School, Brakpora, Anantnag wherefrom he is said to have completed his 11th and 12th Standard schooling to prepare himself for **NEET** Examination through Online mode.

14. In his dossier, the Senior Superintendent of Police (SSP), Anantnag further refers to the alleged incident of **29.05.2023** resulting in registration of **FIR No.171/2023** which resulted in arrest of the petitioner as accused and his bail on **04.02.2025** by the Juvenile Justice Board, Anantnag.

15. Upon his release from the custody, the petitioner is said to have been under proper surveillance of the Security Agencies on the basis whereof it was found out that the petitioner is not refraining himself from Anti-national activities and still supporting the terrorists in a well disguised manner as a result whereof the normal Law not proving sufficient to restrain him in indulging in the activities prejudicial for maintenance of the security of the State, therefore, warrants invoking of preventive detention jurisdiction.

16. On the basis of said dossier so submitted to him, the respondent No. 2-District Magistrate, Anantnag formulated the purported grounds of detention by coming up with repeat of text of the dossier and on that basis holding the petitioner's personal liberty being prejudicial to the security of the State/UT of J&K and, therefore, warranting his preventive detention under J&K Public Safety Act, 1978 which led to passing of the Detention

Order No. **21/DMS/PSA/DET/2025** dated **14.05.2025.**

17. The petitioner was ordered to be detained and kept in Central Jail, Kot-Bhalwal, Jammu.

18. By virtue of communication No. **DMA/JC/PSA/2025/133-38** dated **14.05.2025**, the respondent No.2-District Magistrate, Anantnag meant to apprise the petitioner about the fact of passing of detention order against him and right of the petitioner, as a detenu upon being taken into detention, to make a representation either to the respondent No.2-District Magistrate, Anantnag or to the Government against the preventive detention imposed upon him.

19. This communication to the petitioner was accompanied with twenty leaves (pages) compilation being the order of detention, the grounds of detention, the dossier, the intelligence reports, FIR and other miscellaneous documents.

20. By virtue of a Government Order No. **Home/PB-V/939** dated **15.05.2025**, approval to

the respondent No.2's preventive detention Order No. **21/DMS/PSA/DET/2025** dated **14.05.2025** came to be accorded whereupon the case was referred to the Advisory Board for its opinion. It is after passing of the aforesaid Government Order that the actual arrest and detention of the petitioner had come to take place on **18.05.2025**.

21. The petitioner came to address a written representation to the Home Secretary, Government of UT of J&K on **23.05.2025** acknowledged against receipt No. **5822113**.

22. In addition, the petitioner also addressed a representation dated **23.05.2025** to the respondent No.2-District Magistrate, Anantnag acknowledged against receipt No. **3901/05** dated **27.05.2025** which came to be forwarded from the end of the respondent No.2-District Magistrate, Anantnag vide letter No. **DMA/Judicial/GEN/2025/807-12** dated **27.05.2025** to the Principal Secretary to Government, Home Department, UT of J&K.

23. Advisory Board came to tender its opinion on File No. **Home/PB-V/316/2025** dated **05.06.2025** on the basis whereof the petitioner's preventive detention was held to be justified which paved way for issuance of Government Order No. **Home/PB-V/1230** dated **13.06.2025** thereby not only confirming the detention of the petitioner but also prescribing the period of detention of six months at the first instance from **18.05.2025** to **17.11.2025**.

24. Vide letter No. **Home/PB-V/316/2025/7648285** dated **17.06.2025** from the end of the Home Department, Government of UT of J&K addressed to the respondent No.2-District Magistrate, Anantnag, fact of rejection of the petitioner's representation came to be conveyed.

25. It is at this stage of development of the facts and circumstances that the petitioner had come forward with the institution of the present writ petition on **17.06.2025** assailing his preventive

detention on the grounds as set out in Para 8 (A) to (J).

26. In his writ petition, the petitioner has made reference to the judgments of the Hon'ble Supreme Court of India in the cases of:

i) Dhanayam Vs. State of Kerala, Criminal Appeal No. 2897/2025 disposed of vide judgment dated 06.06.2025;

ii) Vijay Narayan Singh Vs. State of Bihar (1984) 3 SCC 14;

iii) Javeed Ahmad Bhat Vs. State 2003 (sup) JKJ HC 241;

iv) Mohammad Rafiq Rather Vs. State 2003(2) JKJ 743 HC;

v) Mohammad Hussain Vs. State 2005(2) JKJ HC;

vi) Ghulam Nabi Shah Vs. State 2005(1) JKJ 251;

vii) AIR 2009 SC 2185;

viii) Ghulam Rasool Vs. State 2005(2) JKJ HC 400;

ix) AIR 1980 SC 1751;

x) AIR 1999 SC 3251 & 1999;

xi) Mohammad Ahsan Antoo Vs. State 2011(2)

JKJ 216; and

xii) Ishfaq Ahmad Sofi Vs. State & Ors. 2014

(4) JKJ 21.

27. Counter affidavit to the writ petition came to be filed on **04.11.2025** by the respondent No.2-District Magistrate, Anantnag who at the relevant point of time was Mr.Syeed Fakhrudin Hamid (IAS).

28. In the counter affidavit, emphasis has been laid upon the point that all statutory requirements and constitutional guarantees came to be fulfilled and complied with at the end of the respondent No.2-District Magistrate, Anantnag in ordering and carrying out the preventive detention of the petitioner.

29. The fact of fate of rejection of the petitioner's representation being apprised to the petitioner in terms of the communication No. **Home/PB-V/316/2025/7648285** dated **13.06.2025** has been highlighted.

30. Upon hearing the submissions from the both sides and from perusal of the pleadings and the supporting documents therewith as well as the record of the detention produced for inspection of this Court, what comes out to be in clear light is that the petitioner's adverse criminal antecedent is referable only to **FIR No. 171/2023** of Police Station, Anantnag relatable to the alleged commission of offence(s) when the petitioner was in the state of juvenility and for that purpose came to be released by the Juvenile Justice Board, Anantnag on **04.04.2025**. The petitioner is being tried for the alleged commission of offence(s) and that is the ordain of ordinary criminal law of the land.

31. The alleged commission of offence(s) by reference to **FIR No. 171/2023** has to distance itself from the profiling of the petitioner in the context of evaluating as to whether his activities while being in the state of personal liberty were of the range and rank so as to fall within the scope of mischief of the J&K Public Safety Act, 1978

and for that purpose the period of studied surveillance is only when the petitioner came out upon his release from case custody on **04.02.2025** and remained so till getting detained on **18.05.2025**.

32. Thus, it is only during the period of three months' personal liberty state that the petitioner's alleged state of activities are meant to be referred to but then in the name of facts there is worth nothing in the entire dossier to justify the concern of the District Police Anantnag to lay a case for seeking preventive detention of the petitioner and correspondingly there were no basis for the respondent No.2-District Magistrate, Anantnag to reciprocate the plea of the District Police Anantnag with preventive detention order against the petitioner.

33. When this Court makes a comparative reading of the Dossier as well as the Grounds of the detention, this Courts finds the two are '*much of a muchness*' and this is where very exercise of jurisdiction under the J&K Pubic Safety Act, 1978

right from its origin from the end of the Senior Superintendent of Police, Anantnag and culminating in issuance of detention order from the end of the respondent No.2-District Magistrate, Anantnag got on a wrong foot.

34. To put it in simple words, the petitioner has been detained just for nothing but purely on hollowed dubiety restored to by and at the end of the Senior Superintendent of Police, Anantnag and the respondent No.2-District Magistrate, Anantnag.

35. Personal liberty of a citizen of India guaranteed under Article 21 of the Constitution of India is not meant to be a matter of skating on a thin ice that at any given point of time a person can be tripped to suffer deprivation and loss by a fiat of Executive acting upon unfounded and mirage like suspicion, more particularly when it is a matter of a personal liberty of a young person who is otherwise meant to find life for himself/herself.

36. In the light of all aforesaid, the preventive detention of the petitioner is held to be illegal.

Accordingly, preventive detention Order No. **21/DMS/PSA/DET/2025** dated **14.05.2025** passed by the respondent No.2-District Magistrate, Anantnag read with approval/confirmation order(s) passed by the Government of UT of J&K, are hereby quashed. The petitioner is directed to be restored to his personal liberty forthwith by his release from the concerned Jail.

37. Disposed of, as such.

(RAHUL BHARTI)
JUDGE

Srinagar
25.03.2026
Muzammil Q

Whether the judgment is speaking : Yes

Whether the judgment is reportable : Yes / No