

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

Reserved on: 14.10.2025

Pronounced on: 06.11.2025

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

CJ Court

LPA No.121/2025

Tahir Riyaz Dar, aged: 20 years
S/o Riyaz Ahmad Dar
R/o Khrew, Tehsil Pampe District Pulwama,
Through his father: Riyaz Ahmad Dar
Aged: 54 years

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

Through: - Mr. Wajid Haseeb, Advocate.

Vs.

1. UT of J&K through Principal Secretary,
Home Department, J&K Govt. Civil
Secretariat, Srinagar/Jammu.
2. District Magistrate, Pulwama.
3. Senior Superintendent of Police,
Awantipora.

...RESPONDENT(S)

Through: - Mr. Furqan Yaqub, GA.

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

JUDGMENT

OSWAL 'J'

1) This intra-court appeal is directed against the judgment dated 30.05.2025 passed by the learned Writ Court in HCP No.126/2024, whereby the writ petition preferred by the appellant against the order of detention bearing

No.17/DMP/PSA/24 dated 04.04.2024 issued by the respondent No.2 in exercise of powers conferred under Section 8 of the J&K Public Safety Act, 1978 (for short “the Act”), has been dismissed.

2) The appellant being aggrieved of the judgment (supra) has assailed the same, inter-alia, on the following grounds:

- (I) That the learned Writ Court while deciding the petition has not considered the grounds raised by the appellant in the writ petition;
- (II) That the grounds of detention are replica of the police dossier to such an extent that the detaining authority has not changed language of the police dossier while formulating the grounds of detention;
- (III) That the allegations levelled in the grounds of detention have no nexus with the appellant and have been fabricated by the police in order to justify the illegal action of detaining the appellant;
- (IV) That it was argued before the learned Writ Court that the appellant was implicated in case FIR No.46/2022 but was released on bail in September, 2022 and thereafter he has not indulged in any fresh activity warranting his detention and the allegations being stale and without any proximity to the order of detention, could not have formed basis of detention of the appellant;
- (V) That the Writ Court has not appreciated the contention of the appellant that he was not provided with the relevant material on the basis of which the detaining authority had recorded its satisfaction for detaining the appellant;
- (VI) That the appellant had filed a representation before the respondents but the same was not considered in due course of law and non-consideration of the representation has violated the mandate of the Constitution but this contention of the appellant was not rightly considered by the learned Writ Court while passing the impugned judgment.

3) Mr. Wajid Haseeb, learned counsel for the appellant, has submitted that FIR No.46/2022 registered with Police Station, Khrew could not have formed basis for issuance of order of detention as the appellant was juvenile at the relevant time and the charge-sheet against the appellant was produced before the Juvenile Justice Board, Pulwama, as mentioned in the grounds of detention as well. He has further argued that in the dossier, no specific instance in respect of any illegal activity warranting detention of the appellant has been mentioned and the appellant has been detained on vague grounds, which militates against the right of the appellant to file a proper representation as it is always difficult to file an effective representation on vague grounds. He has further argued that the learned Writ Court has not rightly considered the issue of representation filed by the appellant against the order of detention.

4) *Per contra*, Mr. Furqan, learned GA, has argued that the learned Writ Court has dealt with each and every issue urged by the appellant and there is no illegality in the impugned judgment. He has further submitted that the learned Writ Court has rightly arrived at the conclusion that the detention order has been issued by the respondent No.2 in accordance with law.

5) Heard and perused the detention record.

6) A perusal of the detention record reveals that the sponsoring agency submitted a dossier to respondent No.2 requesting him to detain the appellant under the Act. A perusal of the dossier reveals that the reference was made to the arrest of the appellant in FIR No.46 of 2022, his release and subsequent filing of the charge sheet before the Juvenile Justice Board. It is further stated that after his release, the appellant was kept under surveillance and credible inputs were received that the appellant again established contacts with the terrorists operating in the area and was providing logistic support to them. The said dossier and the documents in support thereof led to the formulation of grounds of detention by the detaining authority, i.e. respondent No.2. The appellant, admittedly, was juvenile when he was arrested in FIR No.46 of 2022 and released on bail. An illegal act committed by a juvenile does not stigmatize his future and likewise, any illegal act committed by the juvenile cannot form the basis for issuance of a detention order under the Act subsequently, more particularly when the juvenile cannot be detained under the Act (See sec. 8(3)(f) of the Act). As such, this Court is of the view that the appellant could not have been detained for activities allegedly committed while he was juvenile.

7) In terms of Section 10-A of the Act, an order of detention remains sustainable, provided there are other valid grounds, after severing the unlawful ground upon which it was partly based. Now, it is to be examined as to whether the order of detention is sustainable on the other grounds or not.

8) A perusal of the allegations levelled in the grounds of detention reveals that the same are vague, as respondent No.2 has not provided specific details regarding the period, place or incident for the purpose of recording his satisfaction that it is necessary to detain the appellant under the Act in the interests of security of the State. There are general allegations that the appellant has been instigating the youth of the area to join terrorists rank and is providing logistic support to the terrorists of banned organizations for their movement from one place to another. Had the respondent No.2 mentioned the incidents and details of the terrorists/persons, who were provided logistic support or asked to join terrorists rank, the position would have been different. The ambiguous and unclear grounds do not satisfy the legal requirement for detaining an individual under preventive detention laws.

9) In *Ameena Begum v. State of Telangana*, (2023) 9 SCC 587, the Hon'ble Supreme Court has laid down the following tests to determine the validity of order of detention:

“In the circumstances of a given case, a Constitutional Court when called upon to test the legality of orders of preventive detention would be entitled to examine whether

(i) the order is based on the requisite satisfaction, albeit subjective, of the detaining authority, for, the absence of such satisfaction as to the existence of a matter of fact or law, upon which validity of the exercise of the power is predicated, would be the sine qua non for the exercise of the power not being satisfied;

(ii) in reaching such requisite satisfaction, the detaining authority has applied its mind to all relevant circumstances and the same is not based on material extraneous to the scope and purpose of the statute;

(iii) power has been exercised for achieving the purpose for which it has been conferred, or exercised for an improper purpose, not authorized by the statute, and is therefore ultra vires;

(iv) the detaining authority has acted independently or under the dictation of another body;

(v) the detaining authority, by reason of self-created rules of policy or in any other manner not authorized by the governing statute, has disabled itself from applying its mind to the facts of each individual case;

(vi) the satisfaction of the detaining authority rests on materials which are of rationally probative value, and the detaining authority has given due regard to the matters as per the statutory mandate;

(vii) the satisfaction has been arrived at bearing in mind existence of a live and proximate link between the past conduct of a person and the imperative need to detain him or is based on material which is stale;

(viii) the ground(s) for reaching the requisite satisfaction is/are such which an individual, with some degree of rationality and prudence, would consider as connected with the fact and relevant to the subject-matter of the inquiry in respect whereof the satisfaction is to be reached;

(ix) the grounds on which the order of preventive detention rests are not vague but are precise, pertinent and relevant which, with sufficient clarity, inform the detenu the satisfaction for the detention, giving him the opportunity to make a suitable representation; and

(x) the timelines, as provided under the law, have been strictly adhered to. Should the Court find the exercise of power to be bad and/or to be vitiated applying any of

the tests noted above, rendering the detention order vulnerable, detention which undoubtedly visits the person detained with drastic consequences would call for being interdicted for righting the wrong.”

Emphasis added.

10) In **Fazalkhan Pathan v. Police Commr., (1989) 3 SCC**

590, it was observed as under:

“8. The other grounds regarding the vagueness of the averments made in the grounds about the petitioner indulging in criminal activities apart from the five criminal cases lodged under the Prohibition Act and mentioned in the grounds of detention do not satisfy the requirements envisaged in Section 3(1) of the PASA Act inasmuch as the said five specific criminal cases have no connection with the maintenance of public order. The aforesaid criminal activity does not appear to have disturbed the even tempo of life of the people of Ahmedabad city or of the particular locality. Furthermore the averments that have been made in the grounds are:

“Accordingly, upon careful perusal of complaint and papers enclosed with the proposal it appears that you are a prohibition bootlegger, doing illegal activity of selling English and Deshi liquor. You and your companions are bearing and showing deadly weapons like Rampuri knife to the innocent persons passing through the said locality on the premise of being ‘Batmider’ of police. And you are beating innocent persons who oppose your activity of liquor etc.”

These statements are vague and without any particulars as to what place or when and to whom the detenu threatened with Rampuri knife and whom he has alleged to have beaten. These vague averments made in the grounds of detention hereinbefore are bad inasmuch as the detenu could not make an effective representation against the impugned order of detention. As such the detention order is illegal and bad.----- ”

Emphasis added.

11) Thus, the detenu must be supplied with the grounds of detention in a language intelligible to him and the grounds must be clear, precise, and unambiguous. Vague or unintelligible grounds violate the detenu's right to submit an effective representation against the detention order. On this

ground alone, the order of detention is not sustainable in the eyes of law.

12) For the foregoing reasons, the appeal is allowed and the impugned judgment is set aside, as the learned writ court has not rightly considered the issue in respect of vagueness of the grounds of detention. The detention order bearing No.17/DMP/PSA/24 dated 04.04.2024 is quashed and the respondents are directed to release the appellant from the preventive custody forthwith, provided he is not required in connection with any other case.

13) The detention record be returned to the learned counsel for the respondents.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
06.11.2025
Karam Chand

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