

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

HCP No. 35/2026

Reserved on: 01.10.2026
Pronounced on: 06 .10.2026
Uploaded on: 06.10.2026
Operative part or
full judgment: **Full**

Din Mohd Wani, Age 65 years
S/O Munnar Wani, through his Son
Shahraz Hussain Wani, Age 25 years,
R/O Shuryan Tehsil Doda District DodaPetitioner/Appellant(s)

Through: Mr. N. D. Qazi, Advocate with
Mr. Amir Ajaz, Advocate

Vs

1. **UT of J&K through**
its Principal Secretary to Govt.,Respondent(s)
Home Department,
Civil Secretariat, Jammu.
2. The Union Territory of Jammu & Kashmir,
Through its Financial Commissioner
(ACS Home) to Govt. Civil Secretariat, Jammu.
3. District Magistrate, Doda.
4. Senior Superintendent of Police, Doda.
5. Superintendent, District Jail, Udhampur.

Through: Mr. Adarsh Bhagat, GA

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

01. Petitioner-**Din Mohd Wani**, S/O Munnar Wani, R/O Shuryan Tehsil Doda, District Doda (hereinafter referred to as “the detenue”) through the medium of this petition filed through his son, challenged the **Detention Order No. PSA/02 of 2026 dated 28.04.2026** (hereinafter referred to as “the impugned order”), issued by respondent No. 3, District Magistrate, Doda (hereinafter

referred to as “the detaining authority”), whereby he has been placed under preventive detention, in order to prevent him from acting, in any manner, prejudicial to the maintenance of ‘public order’.

02. The petitioner has contended that the detaining authority has passed the impugned order mechanically, without application of mind and in violation of the constitution safeguards guaranteed under Articles 21 and 22 of the Constitution of India; that there is no sufficient ground to connect the alleged activities of alleged ‘bovine smuggling’, ‘illegal transportation’ and ‘slaughtering of bovines’ with the activity prejudicial to the maintenance of ‘public order’; that there is no live or proximate link between the alleged activities and the detention order. The allegations, even if, taken at their face value, relate purely to ‘law and order’ issues and not ‘public order’; that the detaining authority has merely reproduced the police dossier verbatim, while formulating the grounds of detention, thereby demonstrating complete non-application of mind and absence of independent subjective satisfaction; that the DD entries relied upon by the respondents are vague, repetitive and stereotyped in nature.

03. Pursuant to the notice, the respondents filed counter affidavit through respondent No. 3, wherein the respondents have denied the averments made by the petitioner in the writ petition as factually incorrect and legally misconceived; that the detention of the petitioner is not punitive; instead, it is purely preventive detention on the basis of the dossier provided by the police, containing the previous and present conduct of the detainee; that, keeping in view the prejudicial activities of the detainee, the preventive detention has been ordered so

as to deter him from acting and/or indulging in those activities; that the petitioner has raised disputed questions of facts which cannot be adjudicated upon in a writ petition; that the detaining authority has observed all the safeguards enshrined in Article 22(5) of the Constitution of India as well as the provisions of the Jammu & Kashmir Public Safety Act, 1978, while directing his detention; that the liberty of the detainee is subservient to the welfare, safety and interest of society at large, as such, the detention order has been passed by the detaining authority within the ambit of law. It has been further asserted that the detainee was involved in cases of commission of several offences punishable under Sections 299 and 223 of the Bharatiya Nyaya Sanhita (BNS), 2023, and Section 11 of the Prevention of Cruelty to Animals Act (PCA), 1990, registered at Police Station, Doda, and the detaining authority had drawn its satisfaction on the basis of cogent, credible and incriminating material against the detainee to prevent him from the activities prejudicial to the maintenance of 'public order', and finally, it was prayed that the petition be dismissed and the impugned order be upheld

04. Mr. N. D. Qazi, learned counsel for the petitioner, while making reference to the grounds raised, has, *inter alia*, restricted his arguments and argued that the detaining authority has shown involvement of the detainee in two cases for the commission of offences punishable under the Bharatiya Nyaya Sanhita (BNS), 2023, and the Prevention of Cruelty to Animals Act, and on the basis thereof, has drawn satisfaction to detain the detainee under preventive detention, which cannot be done in view of various judgments passed by this Court on the subject. In support of his submissions, he has relied upon the law

laid down by this Court in an earlier case, “**Hamid Mohd. Vs. UT of J&K & Ors.**” (HCP No. 4/2024), in similar facts and circumstances, holding that the involvement of a person in cases of bovine smuggling or cruelty to animals, there being no instance of creating communal disharmony resulting in ‘public disorder’, preventive detention cannot be ordered in terms of the J&K Public Safety Act. He has also taken the Court to the various other grounds enumerated in the petition and argued extensively in support thereof. The learned counsel for the petitioner further contended that the Daily Diary (DD) entries dated 25.02.2026, 27.02.2026 and 01.03.2026 are almost identical in nature and do not disclose any fresh or independent incriminating material against the detainee. It is, therefore, prayed that the impugned detention order be quashed and the petition be allowed. Lastly, it is prayed that the writ petition be allowed and the impugned detention order be quashed.

05. Mr. Adarsh Bhagat, learned GA, *ex adverso*, argued that smuggling of bovines and subjecting them to cruelty while transporting them without requisite permission, is a sensitive issue, for the reason that such activities do hurt the religious feelings of a particular community, where the cow is revered and considered sacred. He further submits that, on religious feelings being hurt, there is always an apprehension in the minds of law enforcement agencies that it can result in communal disharmony and consequently lead to a ‘law and order’ problem, which may erupt in breach of Public Order. It was finally argued that the detainee, being a potential threat to the ‘public order’, was rightly placed under preventive detention, in view of his continuous involvement in such

activities. The learned counsel for the respondents also produced the detention record to lend support to the stand taken in the counter-affidavit.

06. Heard learned counsel for the parties, perused the detention record and considered the matter.

07. The detention record, as produced, reveals that the detainee was involved in following 02 cases registered at Police Station, Doda:-

- 1) *FIR No.0050/2026; U/Ss 223BNS, 11 PCA Act.*
- 2) *FIR No. 0133/2025; U/S 299 BNS*

Besides the above two FIRs, following DDR entries were also made against the petitioner at P/P Gundana Tantna:

- i) DD Extract No.13 dated 25.02.2026
- ii) DD Extract No.15 dated 27.02.2026.
- iii) DD Extract No. 13 dated 01.03.2026.

The involvement of the detainee in the aforementioned cases appears to have weighed heavily with the detaining authority, while passing the impugned detention order.

08. Learned counsel for the petitioner, while seeking quashment of the impugned order, reiterated various grounds but his main thrust during the course of arguments was on the following grounds:

- (I) That the petitioner was not informed that he has a right to file a representation before the detaining authority within the specified time frame, seeking revocation of the detention order passed against the petitioner.
- (II) That the grounds of detention are a replica of the police dossier; and
- (III) That the allegations relate purely to 'law and order' issues and not to 'public order'.

09. So far as the DDR entries (supra), recorded within a short span of a week, are concerned, it is an admitted case that those have not culminated in any criminal cases. Merely recording DDRs alleging some acts, without specifying any activity allegedly carried out, cannot be the ground to detain a person. It is surprising that, if the acts mentioned in the DDR entries are criminal acts and are cognizable in nature, then why the State has not filed any First Information Report. Law provides that if a cognizable offence is committed and is brought to the knowledge of any authority, a First Information Report should be lodged. If at all those acts mentioned in the DDRs make out any criminal offence, what prevented the State from filing a First Information Report is a mystery

10. The second ground, as argued, is that the detainee was not informed about his right to make a representation before the detaining authority within the specified time frame, thereby violating his statutory and constitutional rights. It is translucently clear from a perusal of the impugned detention order that the Detaining Authority has not communicated to the detainee that he can make a representation to the detaining authority against the impugned detention order seeking its review and revocation, within a certain time period. The above fact of conveying the time period for approaching the detaining authority has not been communicated to the detainee, which is conspicuous on a bare reading of the communication No. 519-19/DM/Doda dated 28.04.2026, issued by the District Magistrate, Doda to the detainee, which shows that *'you can also represent before District Magistrate, Doda against your detention, if you so desire'*

11. In a case of National Security Act, titled “**Jitendra Vs. Dist. Magistrate, Barabanki & Ors.**”, reported as **2004 Cri.L.J 2967**, the Division Bench of Hon’ble Allahabad High Court, has held:-

“10. We make no bones in observing that a partial communication of a right (in the grounds of detention) of the type in the instant case, wherein the time limit for making a representation is of essence and is not communicated in the grounds of detention, would vitiate the right fundamental right guaranteed to the detainee under Article 22(5) of the Constitution of India, namely, of being communicated, as soon as may be the grounds of detention.”

12. Since the detainee’s right to make a representation to the detaining authority was only available to him till the approval of the detention order by the Government, it follows as a logical imperative that the detaining authority should have communicated to the detainee, at the first hand, that he has a right to file a representation before the detaining authority as well, and secondly, the time limit, within which detainee could make a representation to it, i.e., till the approval of the detention order by the State Government. It is settled law that once the Government passes an order approving the order of detention, the Detaining Authority becomes *functus officio* and thereafter cannot review its order. Therefore, the Detaining Authority had to inform the detainee about his right at the very outset, so that the detainee could make a representation for reconsideration by the Detaining Authority. There is, therefore, force in the above argument of the detainee. On this count alone, the impugned detention order being unsustainable and is liable to be quashed.

13. The last ground, which has been urged by the learned counsel for the detainee, is that the Detaining Authority, while formulating the grounds of detention, has failed to apply its mind, inasmuch as the grounds of detention are almost a photocopy of the police dossier. A perusal of the grounds of detention and the police dossier reveals that the language and expressions used in both the documents are almost similar to each other, with intermixing of words here and there. This clearly shows that the Detaining Authority has acted in a mechanical manner.

14. The Supreme Court has, in the case of **Jai Singh and others Vs. State of Jammu and Kashmir, (1985) 1 Supreme Court Cases 561**, clearly stated that where the grounds of detention are a verbatim reproduction of the dossier submitted by the police, it goes on to show that there is non-application of mind on the part of the Detaining Authority. In **Rajesh Vashdev Adnani Vs. State of Maharashtra and others, (2005) 8 SCC 390**, the Supreme Court again reiterated that where the detention order is a verbatim reproduction of the police dossier, the said order suffers from non-application of mind on the part of the Detaining Authority.

15. The next ground argued, referring to the judgment passed by a Coordinate Bench of this Court while deciding a petition titled “**Hamid Mohd. Vs. UT of J&K & Ors.**” (HCP No. 4/2024) on 06.08.2024, is that, on record, there is not even a single incident referred to or reported that, by the alleged involvement of the detainee in any one of the said FIRs registered for alleged bovine smuggling, the so-called communal tension or disharmony took place on such and such occasion, which led to the ‘law and order’ enforcement agency suffering a difficult time in bringing under control the disturbed ‘public order’, so as to

showcase the detinue to be a threat to the maintenance of ‘public order’. Paragraphs Nos. 14, 15, 18 and 19 of the judgment (supra), are reproduced for convenience as under:-

“14.In the grounds of detention, the very fact that in almost in all the cases related to the FIRs registered against the petitioner, it is the offences under section 188 Indian Penal Code read with offence under the Prevention of Cruelty to Animals Act, 1969 which are involved and that is a pointer to the fact that the same are not relatable in any manner to maintenance of public order. On record there is not even a single incident referred or reported that by alleged involvements of the petitioner in anyone of the said FIRs, the so called communal tension or disharmony came to take place on such and such occasion which led to the law and order enforcement agency suffering a difficult time in bringing under control the disturbed public order so as to showcase the petitioner to be a threat to maintenance of public order.

15.The “Public Order” as a concept in distinction to “Law and Order” has been considered by the Hon’ble Supreme Court of India in a long line of cases. In the case of “K. K. Saravana Babu vs. State of Tamil Nadu and another” (2008)9 SCC 89, the Hon’ble Supreme Court of India has recapitulated the case law on the said aspect in which the Security of the State followed by the Public Order and last by “Law and Order” has been set up in an hierarchy. The “Public Order” has been read to be even the tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of Public Order is meant to be distinguished from acts directing against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquility.

16. xxxxxxxx

17.xxxxxxxx

18. "Maintenance of Public Order" as being one of the grounds of subjecting a person to preventive detention is not to be easily assumed to be readily available by a just reference to series of FIRs reporting crimes against a particular individual which would at the most render him to be branded as a habitual offender for which the Code of Criminal Procedure, 1973 in itself has conceived a preventive measure under section 110 which enlists a number of categories for an Executive Magistrate to take cognizance and bind a person so as to prevent him from indulging in repeat of the alleged activities. What is meant to be effectively cured and dealt with under section 110 of the Code of Criminal Procedure, 1973 cannot be diverted to be dealt with by the application of preventive detention mode of J&K Public Safety Act, 1978 by depriving a person of his personal liberty for any given period of time. A preventive detention cannot be restored to by the debunking ordinary criminal procedure and trial of cases.

19. Sr. Superintendent of Police (SSP), Jammu in his dossier did not serve the respondent No. 2-District Magistrate, Jammu with full picture of facts with respect to the petitioner, which is born out from the very fact that the state of trials of the FIRs starting from FIR No. 194/2017 and ending with FIR No. 119/2023 relating to the petitioner was kept withheld from being known and disclosed meaning thereby that state of trial of the cases was of no interest be told and disclosed by the Sr. Superintendent of Police (SSP), Jammu and consequently of no interest to be known by the respondent No.2-District Magistrate, Jammu."

16. This Court again in a judgment titled as **"Reham Ali Vs. UT of J&K & Ors"** (HCP No. 9/2026) decided on 13.05.2026 has followed the dictum laid down in the case of **"Hamid Mohd Vs. UT of J&K & Ors"** (supra).

17. On a perusal of the grounds of detention, it is apparent that the detainee has been accused of being involved in the commission of illegal transportation of bovines and cruelty against animals, regarding which two FIRs had been registered at Police Station, Doda, viz., FIR No. 0050/2026 under Sections 223 BNS, 11 PCA and FIR No. 0133/2026 under Section 299 BNS. The detainee has been ordered to be detained in preventive custody, preventing him from indulging in activities prejudicial to the maintenance of 'public order'.

18. Both of the cases registered vide the aforestated FIRs were regarding illegal transportation of bovines. A perusal of the grounds of detention would show that the said FIRs do not specifically or categorically insinuate that the detainee is involved in the illegal transportation of such animals which are revered by a particular community.

19. The detention order, however, is conspicuously silent with regard to any development based on the cases relating to the maintenance of 'public order'. Though the detaining authority has apprehended the 'public order' based on the FIRs (supra), however, the detaining authority has failed to record as to what was the 'law and order' problem, much less than that of 'public order', in the year 2025 or immediately after registration of the last FIR in the year 2026. Communal disharmony erupts at the spur of the moment and cannot be expected at a later stage. Since the registration of all the cases, which has been made the basis for the passing of the detention order, has neither evoked communal tension nor any problem of 'law and order', which is even far away from 'public order', is shown to have erupted.

20. This court, in view of the aforesaid opinion of the Coordinate Benches and the discussion made hereinabove, has no reason to take a different view in this regard and is persuaded to agree with the view expressed by the Coordinate Benches in the aforesaid cases.

21. The other grounds urged by the learned counsel for the petitioner need not be deliberated upon by this court, in view of succeeding of the writ petition on the grounds discussed in the preceding paragraphs.

22. For the aforesaid reasons, the petition is **allowed** and impugned **Detention Order No. PSA /02 of 2026** dated **28.04.2026** issued by respondent No.3, District Magistrate, Doda, is hereby quashed. The detenu- **Din Mohd Wani**, S/O Munnar Wani, R/O Shuryan, Tehsil Doda, District Doda is directed to be released forthwith, in case he is not required in any other case(s).

23. The detention record produced by the counsel for the respondents be returned to the respondents, through their counsel.

(**M A Chowdhary**)
Judge

Jammu
06.10.2026
Meenakshi

Whether the order is speaking? :Yes/No

Whether the order is reportable? :Yes/No