

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

Reserved on: 20.11.2025

Pronounced on: 05.12.2025

Uploaded on: 05.12.2025

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

HCP No.73/2024

WASEEM AHMAD DAR

...PETITIONER(S)/APPELLANT(S)

Through: - Mr. Altamash Rashid, Advocate.

Vs.

UT OF J&K & ORS.

...RESPONDENT(S)

Through: - Mr. Faheem Nisar Shah, GA.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) Through the medium of present petition, the petitioner has challenged detention order bearing No.02-DMK/PSA of 2024 dated 10.02.2024, issued by District Magistrate, Kupwara, in exercise of powers conferred by Section 8 of the J&K Public Safety Act, 1978, whereby the detainee, namely, Waseem Ahmad Dar @Leepa has been placed under preventive detention so as to prevent him from indulging in the activities which are prejudicial to the security of the State.

2) It has been contended by the petitioner that the impugned order detention is illegal, unconstitutional and bad in law and the same has been passed in breach of the mandate of constitutional law and procedural safeguards. It has been contended It has been contended

that the detaining authority, while passing the impugned order, has not followed the procedural safeguards as provided under Article 22(5) of the Constitution of India and Section 13 of the J&K Public Safety Act. It has been submitted that impugned detention order has been passed without application of mind as the grounds of detention are vague, non-existent and stale, on which no prudent man can make a representation against such allegations. It has been further contended that whole of the material has not been provided to the petitioner and that the representation submitted by the petitioner against the impugned detention order has not been considered and the result of consideration has not been conveyed to him.

3) The respondents, in their counter affidavit, have contended that the activities of the detainee have been found prejudicial to the security of the State. It is pleaded that the detention order and grounds of detention along with the material relied upon by the detaining authority were handed over to the detainee and the same were read over and explained to him. It has been further contended that the detainee was informed that he can make a representation to the government as well as to the detaining authority against his detention. It is also averred in the reply affidavit that all statutory requirements and constitutional guarantees have been fulfilled and complied with by the detaining authority and that the order has been issued validly and legally. The respondents have produced the detention record to lend support to the stand taken in the counter affidavit.

4) I have heard learned counsel for the parties and perused record of the case.

5) Although the petitioner has raised numerous grounds for challenging the impugned order of detention yet, during the course of arguments, much emphasis was laid by learned counsel for the petitioner on the following grounds:

- 1) That whole of the material forming basis of the grounds of detention was not furnished to the petitioner, as a result of which he was hampered from making an effective representation against the order of detention.
- 2) That there has been non-application of mind on the part of the detaining authority, inasmuch as the grounds of detention are replica of the contents of the dossier.
- 3) That the respondents have not taken resort to the ordinary criminal law and instead have resorted to preventive detention of the petitioner which is not permissible in law.

6) So far as the first ground urged by learned counsel for the petitioner is concerned, a perusal of the detention record would reveal that the petitioner has been furnished a total of 23 leaves comprising copy of warrant (01 leaf), grounds of detention (02 leaves), notice of detention (01 leaf), letter addressed to the Financial Commissioner Home Department, J&K (01 leaf), copy of dossier (02 leaves), copies of other relevant documents annexed with dossier (08 leaves), copy

of complaint under Section 107/151 Cr. P. C dated 19.09.2023 of Police Station, Pethkote Bandipora and order dated 19.09.2023 issued by the Executive Magistrate 1st Class, Bandipora (02 leaves) and copy of Urdu translation of detention order/grounds of detention (06 leaves). The execution report bears signatures of the petitioner and the detention record also contains the receipt executed by the petitioner.

7) If we have a look at the grounds of detention, the detaining authority has relied upon the complaints filed by the police against the petitioner under Section 107/151 of Cr. P. C and videos uploaded by the petitioner on his Facebook. Not only the copies of the complaints and the orders passed thereon by the Executive Magistrate concerned have been furnished to the petitioner but along with the copy of dossier, the detaining authority has provided the screenshots of the Facebook pages of the petitioner in support of their allegation that the petitioner has been uploading the contents with a view to promote terrorism and radicalize the youth. Thus, it cannot be stated that the petitioner has not been provided whole of the material that formed basis of the grounds of detention. The contention of the petitioner in this regard is belied from the detention record produced by the respondents.

8) Regarding second ground that has been urged by the petitioner, it is to be noted that while formulating the grounds of detention, the detaining authority has narrated the background of the petitioner by incorporating the facts narrated in the police dossier. However, after

narrating the background facts, the detaining authority has clearly framed its opinion that the activities of the petitioner are highly prejudicial to the security of the Union Territory of the Jammu and Kashmir. So, it is not a case where the detaining authority has mechanically copied the contents of the police dossier while formulating the grounds of detention but it is a case where the detaining authority has applied its mind to the police dossier and the material annexed thereto, whereafter it has framed its opinion that it is imperative to detain the petitioner under the provisions of the J&K Public Safety Act. The contention of the petitioner that the detaining authority has acted in a mechanical manner is, therefore, misconceived.

9) Lastly, it has been contended that the respondents have not resorted to the procedure under normal criminal law but have straightaway taken the petitioner into preventive custody which is not permissible in law. In this regard, it is to be noted that no FIR has been lodged against the petitioner nor it is a case where the petitioner was on bail. Thus, there was an occasion for the respondents to apply for cancellation of his bail. It is a case where apprehension of the detaining authority with regard to the alleged activities of the petitioner was based upon the reports received from different agencies which included the videos uploaded by the petitioner on his Facebook account. It is on the basis of these anti-national videos/photos/posts/chats which were uploaded by the petitioner on his Facebook account that the detaining authority was satisfied that it

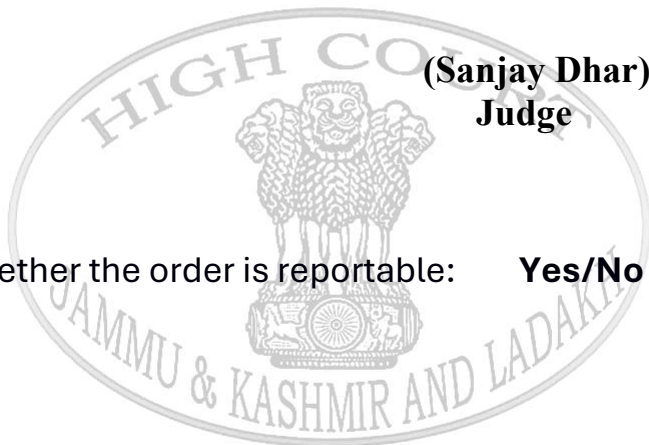
is necessary to detain the petitioner in order to prevent him from indulging in the activities which are prejudicial to the security to the State. There was no occasion for the respondents either to resort to normal criminal law or to seek cancellation of his bail. The contention of the petitioner in these circumstances is not tenable in law.

10) For the foregoing reasons, I do not find any ground to interfere with the impugned order of detention. The petition lacks merit and is dismissed accordingly.

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

Srinagar
05.12.2025
"Bhat Altaf-Szegy"

Whether the order is reportable: **Yes/No**



(Sanjay Dhar)
Judge