

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

HCP 136/2025

**Reserved on : 26.09.2025
Pronounced on : 08.10.2025**

**Amir Amin Sofi, Aged 24 Years
S/O Mohammad Amin Sofi
R/O Shad Chak Awneera Zainapora, District Shopian
Through his Brother
Manzoor Ahmad Sofi, Aged 35 Years**

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

Through: Mr. Wajid Mohammad Haseeb, Advocate

Vs.

- 1. UT of J&K Through Principal Secretary,
Home Department, J&K Govt. Civil
Sectt., Srinagar/Jammu**
- 2. District Magistrate, Shopian.**
- 3. Sr. Superintendent of Police, Shopian**

...Respondent(s)

Through: Mr. Bikramdeep Singh, Dy.AG

CORAM:

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

JUDGMENT

1. By this petition, the petitioner Mr. Manzoor Ahmad Sofi is assailing the order No. 09/DMS/PSA of 2025 dated 03.05.2025 (herein after referred to "impugned order"), passed by respondent No. 2 District Magistrate Shopian, whereby, Amir Amin Sofi, S/O Mohammad Amin Sofi, R/O Shad Chak Awneera, Zainapora District Shopian (hereinafter for short "detenue") has been detained under and in terms of the provisions of Jammu and Kashmir Public Safety Act 1978, for having indulged in the activities prejudicial to the maintenance of security of state and lodged in District Jail Jammu.

2. Before the grounds taken in support of the petition are summarized, it would be advantageous to refer to the facts, briefly, in the first instance.

Brief Facts:

The detainee was stated to have been carrying on routine activities as a peaceful citizen, when he was arrested by police station Zainapora, in the last week of April 2025 and detained subsequently in terms of the impugned order. The detainee is stated to have been involved in case FIR 14/2022 of police station Zainapora, in which he was arrested and subjected to investigation and later on detained under the provisions of Public Safety Act in terms of order dated 06.04.2022 passed by respondent No. 2. The said detention order has been challenged by the petitioner in a petition registered as WP(cr) 203/2022. The maximum period of detention during the pendency of such petition before this Court expired and the detainee was released from custody. The impugned order assailed in the present petition has been issued later in time after he was released upon serving the maximum period prescribed under the provisions of the Act in custody. The petitioner is assailing the impugned order, inter alia on the grounds that the allegations mentioned in the grounds of detention has no nexus with the detainee, having fabricated by the police; the impugned order seems to have been passed against the wrong person, as the detainee does not know anyone as alleged in the grounds of detention, nor has he associated himself with any organization as referred therein; the allegations mentioned in the grounds of detention are false; the allegations in respect of detainee's involvement in Pahalgam attack are imaginary and without any basis; the detainee's earlier detention order does not find mention anywhere in the grounds of detention, which reflects the non-application of mind on the part of detaining authority; the detainee is not alleged to have involved himself in any fresh activity after his release from the earlier detention; the detainee could not have been detained on the same set of allegations as had been leveled against him in the earlier detention order, in which the detainee remained in custody for the maximum

period prescribed therein; the alleged activity against the detainee has taken place in the year 2022 and no fresh activity has been attributed to him while passing the impugned order on 03.05.2025, the allegations thus are stale; the detaining authority has entirely relied on the police dossier and has not derived its own satisfaction vis-a-vis the detention of the detainee, the grounds of detention are replica of the dossier; the detainee was not furnished the relevant material like copy of dossier other connected material, depriving the detainee from making an effective representation against the detention to the Government or to the Advisory Board; the material furnished to the detainee is vague, not legible and does not connect the detainee to the allegations leveled against him; the representation of the detainee has not been considered reasonably etc.

3. The petitioner, while seeking the release of the detainee from preventive custody has sought Two Lakh Rupees from the respondents for detaining the detainee illegally.

4. Upon notice, the respondents appeared and filed the reply affidavit, stating therein inter alia, that based on the reasonable future behavior prediction and considering the detainee's past conduct, in light of the surrounding circumstances the impugned order has been passed; there is a direct and immediate link between the detainee's past conduct and his current and eminent future activities; the collective assessment of the grounds of detention has led to the subjective satisfaction of the detaining authority for passing the impugned order; the contentions made in the petition are baseless; the purpose of the preventive detention is detaining of a person and not to punish him for something he has done but to prevent him from doing it; the detainee has been instrumental in providing information about the movements of security forces in the area which resulted in unsuccessful search operations; the detainee facilitated the movement of terrorist of Al-Badar outfit namely Abdul Qayoom Dar, S/O

Ghulam Mon-U Din Dar, R/o Green Colony Larve, Pulwama; the detainee has been bound down under Section 126/170 BNSS by the Executive Magistrate Zainapora and was directed not to engage in suspicious activity but the detainee continues to repeat the same behavior; the detainee being an educated person knows it well that the routine laws of land shall not be easily enforced upon him due to various tangible reasons and while harboring such belief, the detainee remains a perpetual concern for the security agencies; the safeguards provided by the Act have been complied with; the representation filed by petitioner has been considered and rejected in terms of communication dated 11.06.2025 etc.

5. Heard learned counsel for the parties, considered the submissions made and perused the material made available, including the detention record.

6. The admitted position of the case is that the detainee has been found involved in Case FIR No. 14/2022 of police station Zainapora, arrested and subsequently detained under preventive detention in terms of order dated 06.04.2022. The detainee in pursuance thereof, has remained in preventive detention for the maximum period prescribed under the Act and has accordingly been released thereafter. The specific averment taken in the petition by the learned counsel for the petitioner is that the detainee has been detained again in terms of the impugned order on the same set of facts as were alleged against him in terms of the previous detention order, the maximum term of imprisonment whereof he has satisfied. No fresh activity is attributed to him, which could form a ground for his detention afresh.

7. Going by the contents of the reply affidavit and the detention material, relied upon by the detaining authority in detaining the detainee, one could decipher conveniently that the detaining authority has been weighed by the past conduct of the detainee and has, as such passed the impugned order. The respondents have categorically stated in the reply affidavit that there was a

possibility of the detainee to indulge in the similar activities in the future also, therefore the preventive detention was taken recourse of.

8. The learned counsel for the petitioner is absolutely justified in submitting that the detainee is not alleged to have indulged in any fresh activity to constrain the respondents to again press into service the preventive laws against him, so as to deter him from repeating such activities. There is absolutely nothing on record to that extent. Neither do the respondents allege anything like that in their reply affidavit. Having said that the detainee has obviously being detained under preventive detention for his alleged involvement in case FIR No. 14/2022, for which he has already remained in jail for the maximum period prescribed by the Jammu and Kashmir Public Safety Act.

9. The respondents are in no way justified in issuing the impugned order against the detainee, while taking into consideration his past conduct. The Apex Court has deprecated such practice of passing the detention orders against an individual based on his past conduct. It would be profitable to reproduce paragraph 12, in the case titled “**Chhagan Bhagwan Kahar Vs. N.L. Kalna & Ors.**”, reported as (1989) 2 SCC 318:

“It emerges from the above authoritative judicial pronouncements that even if the order of detention comes to an end either by revocation or by expiry of the period of detention there must be fresh facts for passing a subsequent order. A fortiori when a detention order is quashed by the court issuing a high prerogative writ like habeas corpus or certiorari the grounds of the said order should not be taken into consideration either as a whole or in part even along with the fresh grounds of detention for drawing the requisite subjective satisfaction to pass a fresh order because once the court strikes down an earlier order by issuing rule it nullifies the entire order”

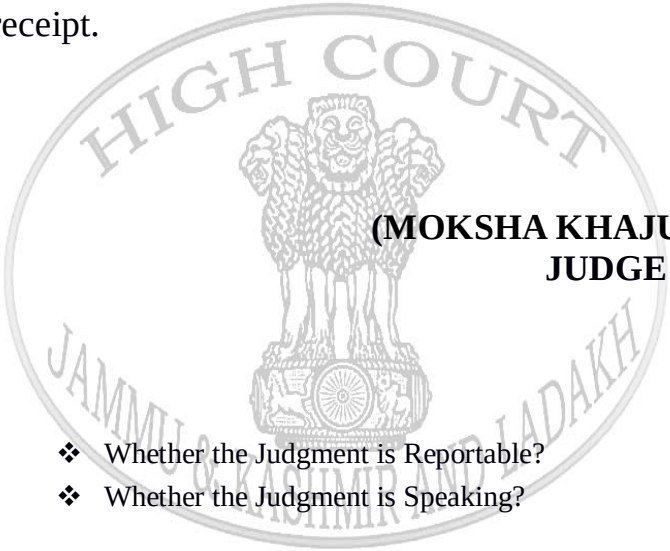
10. The learned counsel for the petitioner has pleaded that the copy of the grounds of detention reliance whereof has been placed by the detaining authority, has not been furnished to the detainee, however, the record produced

by the learned counsel for the respondents demonstrates that the detenue has been provided in as many as 35 leaves of the detention material, without specifying as to what these 35 leaves are comprised of.

11. It being so, the petition succeeds and is allowed as such, the impugned order No. 09/DMS/PSA of 2025 dated 03.05.2025, passed by District Magistrate Shopian, by virtue of which the detenue namely Mr. Amir Amin Sofi S/O Sh. Mohammad Amin Sofi R/O Shadchak Awneera Zainapora, District Shopian, had been detained in preventive detention is quashed and the detenue is directed to be set at liberty forthwith.

12. Detention record be returned to the learned counsel for respondents against proper receipt.

SRINAGAR:
08.10.2025
“Adil Ismail”



(MOKSHA KHAJURIA KAZMI)
JUDGE

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| ❖ Whether the Judgment is Reportable? | No. |
| ❖ Whether the Judgment is Speaking? | Yes. |