



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

2026:JKLHC-SGR:66-DB

.....

LPA No.211/2025  
In HCP No.242/2024

Reserved on: 15.04.2026  
Pronounced on: 23.04.2026  
Uploaded on: 23.04.2026

Whether the operative part or  
full judgment is pronounced: Full

Zameer Ahmad Shah

.....Petitioner(s)

Through: Mr. Wajid Haseeb, Advocate

Versus

Union Territory of J&K and others

.....Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA

**CORAM:**

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

**JUDGEMENT**

**PER OSWAL-J**

1. The appellant came to be detained pursuant to order of detention bearing No.22/DMA/PSA/DET/2024 dated 20.05.2024, passed by the District Magistrate, Anantnag (respondent No. 2) in exercise of powers under Section 8 of the J&K Public Safety Act, 1978 (hereinafter referred to as "*the Act*"). The appellant challenged the said order of detention by way of HCP No.242/2024, which, however, came to be dismissed by the learned Writ Court vide judgment dated 22.08.2025 (hereinafter referred to as "*the impugned judgment*").



2. Being aggrieved of and dissatisfied with the impugned judgment dated 22.08.2025, the appellant has assailed the same on the following grounds:

- (i) That the learned writ court has failed to consider and properly appreciate the grounds urged by the appellant in the writ petition, thereby rendering the impugned judgment unsustainable in law.
- (ii) That the learned Writ Court has failed to properly appreciate the contention of the appellant that the order of detention has been passed by respondent No.2 without due application of mind inasmuch as the grounds of detention are a verbatim reproduction of the police dossier, thereby vitiating the order of detention.
- (iii) That the learned writ Court has failed to appreciate that the allegations set out in the grounds of detention had no nexus with the appellant and were fabricated by the police with the sole object of illegally detaining the appellant, thereby vitiating the impugned order of detention.
- (iv) That it was specifically submitted before the learned Writ Court that the appellant was not furnished with the relevant material forming the basis of the subjective satisfaction recorded by the detaining authority, as reflected in the order of detention and the grounds of detention; however, the learned writ Court has failed to properly appreciate the said contention, thereby vitiating the impugned judgment.
- (v) That the learned Writ Court has failed to appreciate that the appellant had submitted a representation against the order of detention, which was not considered and disposed of by the respondents in accordance with law and within a reasonable time, thereby violating the constitutional safeguards available to the appellant.



3. Learned counsel for the appellant has submitted that the appellant filed a representation against the order of detention to Government, but the same was not considered by the competent authority in accordance with law. It is further submitted that the appellant had earlier been proceeded against under Section 107 Cr.P.C., and upon his release, no fresh illegal activity was attributed to him so as to warrant his preventive detention under the Act.
4. *Per contra*, learned counsel for the respondents has argued that the learned Writ Court has rightly considered the contentions of the appellant and after considering the same only, the writ petition preferred by the appellant was dismissed. He has further argued that the procedural safeguards under the Constitution and the Act were duly followed while issuing and executing the order of detention.
5. Heard learned counsel appearing for the parties and perused the record.
6. The record reveals that, pursuant to the dossier prepared by respondent No.3, a proposal was submitted to respondent No.2 for detaining the appellant under the Act on the ground that his activities were prejudicial to the security of the State/UT of J&K. Acting upon the said dossier, respondent No.2 issued the order of detention dated 20.05.2024.
7. It is contended by the appellant that he was implicated in FIR No.49/2024 and was released on personal bond and thereafter the appellant has not involved himself in any illegal activity and further that the representations submitted by the appellant to respondent Nos. 1 & 2 were not considered by the respondents.



8. We have examined the detention record which reveals that 2025:JKLHC-SGR:66-DB representation dated 30.05.2024 submitted by the father of the appellant on 09.06.2024 was rejected vide letter No. Home/PB-V/395/2024/7483196 dated 02.07.2024, addressed by Deputy Secretary to Government, Home Department, to the District Magistrate, Anantnag, but we have not come across any document that the appellant or his father was informed about the decision taken upon the said representation.
9. The respondents were under obligation not only to decide the representation expeditiously but also to communicate the detenu about the decision of the said representation but in the present case, the respondents have failed to communicate the detenu the decision of the said representation. As such, detention of the appellant gets vitiated.
10. It would be appropriate to take note of the judgment of the Hon'ble Supreme Court of India in *Sarabjeet Singh Mokha vs. District Magistrate, Jabalpur and others*, (2021) 20 SCC 98, wherein the Hon'ble Supreme Court has considered the legal effect of delay in deciding a detenu's representation, as well as the failure to communicate the decision to the detenu, on the validity of the order of detention. The governing principle has been succinctly laid down in paragraph 47 of the said judgment. The relevant extract reads as under:

“47.By delaying its decision on the representation, the State Government deprived the detenu of the valuable right which emanates from the provisions of Section 8(1) of having the representation being considered expeditiously. As we have noted earlier, the communication of the grounds of detention to the detenu “as soon as may be” and the affording to the detenu of the



earliest opportunity of making a representation against the order of detention to the appropriate government are intended to ensure that the representation of the detenu is considered by the appropriate government with a sense of immediacy. The State Government failed to do so. The making of a reference to the Advisory Board could not have furnished any justification for the State Government not to deal with the representation independently at the earliest. **The delay by the State Government in disposing of the representation and by the Central and State Governments in communicating such rejection, strikes at the heart of the procedural rights and guarantees granted to the detenu.** It is necessary to understand that the law provides for such procedural safeguards to balance the wide powers granted to the executive under the NSA. The State Government cannot expect this Court to uphold its powers of subjective satisfaction to detain a person, while violating the procedural guarantees of the detenu that are fundamental to the laws of preventive detention enshrined in the Constitution.”

Emphasis added

11. We have examined the judgment rendered by the learned Writ Court and we find that the pivotal issue noticed by us hereinabove has escaped the consideration of the learned Writ Court.

12. In light of the above, we are of the considered view that the judgment impugned in this appeal is not sustainable in the eyes of law and accordingly, the same is set aside. Resultantly, the order of detention bearing No.22/DMA/PSA/DET/2024 dated 20.05.2024, passed by the District Magistrate, Anantnag under Section 8 of the Jammu and Kashmir Public Safety Act, 1978 is **quashed**. The appellant shall be released forthwith, if not required in connection with any other case.

13. The record shall be returned to the learned counsel appearing for the respondents.

14. **Disposed** of as above along with connected CM(s), if any.

(Rajnish Oswal)  
Judge

(Arun Palli)  
Chief Justice

JAMMU  
23.04.2026  
Ajaz Ahmad, Secy

Whether order is reportable? Yes/ No.