



HIGH COURT OF JAMMU & KASHMIR AND LADAKH 2026:JKLHC-SGR:95-DB
AT SRINAGAR

.....

LPA No.262/2025
In HCP No.295/2024

Reserved on: 08.04.2026
Pronounced on: 07.05.2026
Uploaded on: 07.05.2026

Whether the operative part or
full judgment is pronounced: Full

Mohammad Ilyas Sheikh Th. His Father Gh. Hassan Sheikh
.....Petitioner(s)

Through: Mr. G. N. Shaheen, Advocate
with Mr. Asif Nabi, Advocate

Versus

Union Territory of J&K and others
.....Respondent(s)

Through: Mr. Zahid Qais Noor, 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.16/DMK/PSA/2024 dated 27.07.2024, passed by District Magistrate, Kulgam (respondent No.2) in exercise of powers under Section 8 of the Jammu and Kashmir Public Safety Act, 1978 (hereinafter referred to as "*the Act*").
2. The appellant challenged the said order of detention by way of HCP No.295/2024, which, however, came to be dismissed by the learned



Writ Court vide judgment dated 25.09.2025 (hereinafter referred to as "the impugned judgment").

3. Being aggrieved of and dissatisfied with the impugned judgment dated 25.09.2025, 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, 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.
- (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 urged before the learned writ Court that the appellant had been taken into custody and was bound down under Section 107/151 of the Code of Criminal Procedure (Cr.P.C.) for maintaining a good behaviour. The alleged activity against appellant was of the year 2019 and the order of detention has been passed in the year 2024 inasmuch as there is a delay of five years between the alleged activity and the order of detention.
- (v) 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 2026:JKLHC-SGR:95-DB contention, thereby vitiating the impugned judgment.

(vi) That the appellant was earlier detained in terms of order of detention dated 19.04.2021, which was subsequently quashed by learned Single Judge of this Court in terms of judgment dated 03.11.2021 and yet again the appellant has been detained on the same set of allegations but the learned writ court has not properly considered the said contention.

4. Learned counsel for the appellant has stated that the appellant had been detained vide Detention Order No.01/DMK/PSA/2021 dated 19.04.2021 passed by District Magistrate, Kulgam. The said detention order was challenged in WP(Crl) No.80/2021 and the same was quashed vide judgement dated 03.11.2021. It is further submitted by learned counsel for the appellant that the order of detention dated 27.07.2024 has been passed on the same grounds which were made use of by the detaining authority while passing the detention order in the year 2021, as such, the detention order is not sustainable, particularly when no fresh illegal activities have been attributed to the appellant.
5. *Per contra*, Mr. Zahid Qais Noor, learned Government Advocate, has submitted that the order of detention was passed after due consideration of the activities of the appellant, which were found to be prejudicial to the security of the State. It is further submitted that all the procedural as well as constitutional safeguards were strictly followed and complied with at the time of issuance as well as execution of the detention order. He has also contended that the learned Writ Court has rightly appreciated and adjudicated the controversy involved; therefore, this appeal being devoid of any merit deserves to be dismissed.



6. Heard learned counsel appearing for the parties and perused the record. 2025:JKLHC-SGR:95-DB
7. Firstly, it is contended by the learned counsel for the appellant that the appellant was detained pursuant to the order of detention dated 19.04.2021, passed by the District Magistrate, Kulgam, which was subsequently quashed by the learned Writ Court vide judgement dated 03.11.2021 in WP(CrI) no.80/2021, but this fact was not brought to the notice of the detaining authority by the sponsoring agency.
8. We have examined the dossier. Perusal of the dossier submitted by the sponsoring agency to the detaining authority though demonstrates that the appellant was detained under preventive detention during the year 2021 but it is nowhere mentioned in the dossier that the said detention order was quashed by the learned Writ Court in WP(CrI) no.80/2021 and in the grounds of detention, the same fact has been reiterated by the detaining authority. It was incumbent on the part of the sponsoring agency to disclose the complete facts to the detaining authority so as to enable the detaining authority to arrive at subjective satisfaction that it was necessary to detain the appellant. Suppression of fact of quashing of the earlier detention order by the learned Single Judge in the dossier, is itself sufficient to vitiate the order of detention.
9. It was also vehemently urged by the learned counsel for the appellant that in the grounds of detention there is no whisper that after the appellant was released in the year 2021, he indulged in any illegal activity prejudicial to the security of the State warranting detention of the appellant.
10. After having examined the grounds of detention as well as dossier, we find that no illegal activity has been attributed to the appellant except



that he was bound down under Section 107/151 Cr.P.C. If the appellant was required to be detained under the Act, the detaining authority as well as the sponsoring agency were required to specifically mention the illegal activities of the appellant warranting his detention. On this count as well the order of detention is not sustainable.

11. We have examined the judgment rendered by the learned writ Court and we find that the pivotal issues noticed by us hereinabove have 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. 16/DMK/PSA/2024 dated 27.07.2024, passed by the District Magistrate, Kulgam (respondent No. 2) 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
07.05.2026
Ajaz Ahmad, Secy

Whether approved for reporting? Yes/No