

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

HCP No. 06/2026

Reserved on: 20.08.2026

Pronounced on: 29.08.2026

Uploaded on: 29.08.2026

Operative part or full judgment: Full

Mohd. Manzoor

...Petitioner(s)

S/O Mohd. Khan,
R/O Village Talwal
Tehsil & District Rajouri

Through his wife-Arshad Begum

Through: Mr. Irfan Khan, Advocate.

Vs.

1. UT of Jammu & Kashmir through

Commissioner/Secretary (Home)
Civil Secretariat, Jammu/Srinagar.

2. District Magistrate, Rajouri.

**3. Senior Superintendent of Police,
Rajouri.**

4. Superintendent,
Central Jail,
Kote Bhalwal, Jammu.

Respondent(s)

Through: Mr. Dewakar Sharma, Dy. AG

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

JUDGMENT

01. Through the medium of this Habeas Corpus Petition, filed through his wife-Arshad Begum, the petitioner-Mohd. Manzoor (hereinafter called '**detenue**') seeks quashment of

Order No. DMR/PSA/11 of 2025 dated 30.12.2025 (hereinafter called '**detention order**') passed by the respondent No. 2-District Magistrate, Rajouri (hereinafter called '**detaining authority**') whereby and whereunder, in terms of Section 8 of the Jammu & Kashmir Public Safety Act (for short, PSA), he had been ordered to be detained under preventive detention in order to prevent him from acting in any manner, which is highly prejudicial to the maintenance of public order.

- 02.** The impugned detention order has been challenged mainly on the grounds, firstly that the grounds of detention are vague, mechanical and based merely upon registration of FIRs, which do not disclose any activity prejudicial to the maintenance of public order; secondly, that no subjective satisfaction has been drawn by the detaining authority while passing the detention order as in three of the four FIRs i.e., FIR Nos. 172/2022, 257/2022 & 510/2025 on the basis of which the detention order was passed, the detinue has already been convicted, while the fourth FIR i.e., FIR No. 559/2025 is still under investigation; thirdly that the detinue has not been informed about his right to make effective representation to the detaining authority.
- 03.** Pursuant to notice, the respondent No. 2 has filed the counter affidavit, asserting therein that the detention order

has been passed strictly in accordance with law after application of mind and upon subjective satisfaction based on cogent material placed before him; that the impugned detention order has been passed after due compliance of the Constitution and provisions of J&K Public Safety Act; that the repeated involvement of the detainee in such acts has the potential to disturb the tempo of life, create fear and communal disharmony and trigger law and order problems, thereby squarely falling within the ambit of Public Order; that all the relevant material was provided to the detainee and the contents of the detention order were read over and explained to the detainee in Hindi/Urdu, which he fully understood; that the detainee was also informed of his right to make representation to the Government as well as to the detaining authority. Lastly, he has argued that the impugned detention order be upheld and the petition filed by the detainee, being devoid of any merit and substance, be rejected.

- 04.** Heard learned counsel for the parties, perused the detention record and considered.
- 05.** The impugned detention order was passed by District Magistrate to prevent the detainee from the criminal activities, highly prejudicial to the maintenance of public order, while making reference to his involvement in FIR

Nos. 172/2022 under sections 188 IPC and 11 PC Act, 257/2022 under sections 188 IPC and 11 PC Act, 510/2025 under sections 223 BNS, 11 PC Act and 3/181 MV Act and 559/2025 under sections 223 BNS and 11 PC Act, with the accusation that he was found transporting the bovines without any valid permission from the competent authority.

06. So far as the first ground of challenge that the grounds of detention are vague, mechanical and based merely upon registration of FIRs, which do not disclose any activity prejudicial to the maintenance of public order is concerned, in this regard, it is to be noted that in the grounds of detention, reference is made to four FIRs i.e., FIR Nos. 172/2022 under sections 188 IPC and 11 PC Act, 257/2022 under sections 188 IPC and 11 PC Act, 510/2025 under sections 223 BNS, 11 PC Act and 3/181 MV Act and 559/2025 under sections 223 BNS and 11 PC Act, with the accusation that he was found transporting the bovines without any valid permission from the competent authority.

07. It has been contended by learned counsel for the respondents that the fact that the petitioner has indulged in as many as four cases of bovine smuggling shows that he has no respect for the law and his continuous

criminal/anti-social activities are prejudicial to the maintenance of public order in the district and his repeated involvement in such offences clearly demonstrates his criminal propensity and disregard for the law.

08. In somewhat similar circumstances, a Coordinate Bench of this Court in the case of **Bhupinder Kumar alias Pappu Krishan Lal Vs. UT of J&K & Ors, AIR Online 2025 J&K 499** has, while dealing with the effect of allegations relating to transportation of bovine animals and cruelty against animals and considering the issue as to whether such allegations would have the potential of disturbing the public order, made the following observations:

16. It appears that the detenue was charged for having contravened the order issued by the District Magistrate to have transported the bovine animals without permission, therefore, simply registering a case under section 188 IPC does not “ipso facto” constitute an offence of “bovine smuggling”. Transportation without permission can be a disobedience of an order issued by public authority which does not necessarily mean that it amounts to bovine smuggling of which the detenue has been alleged. For example a person who transports his own animals or purchased animals from one district to another without permission cannot be stated to have smuggled such bovine animals and such an offence if committed by a person can be dealt with under the penal law for which invoking the preventive detention of a person for a period of one year, without affording him an opportunity of being heard or without being tried would be a travesty of justice. The detaining authority in this case has, thus, exceeded its jurisdiction to

state that the detention order was required to be passed so as to prevent the detainee from carrying on the activities prejudicial to the public order. Public order is a form of development, which erupts due to public anger and is something beyond the failure of the law and order, therefore, without any such development, it cannot be stated that the detainee was a threat to the maintenance of public order, so as to attract his detention.

17. Instead of being contended with, investigation into, prosecution therefor, with regard to penal offences, the State should not take recourse to preventive detention of an accused of such offences, without there being any right to bail, as during trial. Preventive detention is a strong arm tactic of the State to divest a citizen, from his most cherishable fundamental right of "personal liberty". The State should not resort to take recourse to preventive detention, on drop of a hat, but reserve this option for exceptionally grave cases, which may call for the same, having regard to the prejudicial activities to public order or national security. Public order is a grave situation, much beyond the law and order situation. In the detainee's case, no such instance or activity on his part has been shown that there was any problem of law and order even, the State had to tackle with, not to talk of public order.

- 09.** From the foregoing analysis of legal position, it is clear that merely because the petitioner is alleged to be involved in the offences relating to transportation of bovine animals without permission is not a sufficient ground to invoke the remedy of preventive detention, particularly, in a case where the detaining authority has not recorded any subjective satisfaction that such activities of the detainee have either resulted or have the potential to lead to public

outrage. The impugned order of detention is, therefore, unsustainable in law on this ground.

- 10.** The second ground of challenge is that no subjective satisfaction has been drawn by the detaining authority while passing the detention order as in three of the four FIRs i.e., FIR Nos. 172/2022, 257/2022 & 510/2025 on the basis of which the detention order was passed, the detinue has already been convicted, while the fourth FIR i.e., FIR No. 559/2025 is still under investigation. The said contention that the requisite subjective satisfaction was not arrived at by the Detaining Authority merits acceptance. The detention order is based upon four FIRs, namely, FIR Nos. 172/2022, 257/2022, 510/2025 and 559/2025. It is an admitted position that, in respect of three of the said FIRs, namely, FIR Nos. 172/2022, 257/2022 and 510/2025, the detinue had already been convicted, whereas FIR No. 559/2025 was still under investigation. The fact that three of the four cases had already culminated in conviction constituted a vital and relevant circumstance, which the Detaining Authority was required to consider while arriving at its subjective satisfaction. The Detaining Authority was required to examine whether, notwithstanding the culmination of those proceedings, the said cases continued to furnish a

live and proximate basis for apprehending that the detainee was likely to indulge in activities prejudicial to the maintenance of public order. The mere reproduction or reference to such FIRs, without consideration of their changed status and their continuing relevance, cannot by itself constitute the requisite subjective satisfaction.

- 11.** So far as FIR No. 559/2025 is concerned, the same was admittedly still under investigation, and its mere pendency could not, in isolation, establish the necessity for preventive detention. The Detaining Authority was required to consider the material emerging from the investigation and satisfy itself that such material disclosed a real and proximate likelihood of the detainee engaging in prejudicial activities in future. Thus, when three out of the four FIRs relied upon had already culminated in conviction and the fourth was still under investigation, the Detaining Authority was required to undertake a careful and independent assessment of the present relevance of each case and its nexus with the alleged future threat. In the absence of any discernible consideration of these material circumstances, the satisfaction recorded in the detention order cannot be regarded as a genuine and independent satisfaction but appears to be mechanical and vitiated by non-application

of mind. The impugned detention order, therefore, cannot be sustained on this ground.

12. So far as third ground of challenge that the detainee has not been informed about his right to make effective representation to the detaining authority, it is established from the perusal of record that detaining authority, has neither in the detention order nor in the grounds of detention, informed about his right to make a representation to the detaining authority as well as to the Government. In fact, in the communication dated 30.12.2025, the detainee was informed that you may make a representation against the detention order to the Government only, but omitted to inform that such a representation can be made to the detaining authority also.

13. The constitutional guarantee of making a representation is meaningful only when the detainee is clearly informed of the authorities before whom such representation can be made and the earliest opportunity to exercise that right. Non-communication of this valuable constitutional right deprives the detainee of an effective opportunity to challenge the detention at the earliest stage, thereby vitiating the detention order. The same constitutes a

violation of Article 22(5) of the Constitution. Since the procedural safeguards governing preventive detention are mandatory and must be strictly complied with, such omission vitiates the detention order illegal and liable to be set aside.

14. As a sequel to the aforementioned discussion and observations made hereinabove, the present petition is **allowed**. Consequently, impugned detention order is quashed. The detenue is directed to be released forthwith if not required in any other case(s). The detention record be returned to the learned counsel for the respondents.

15. Disposed of accordingly along with connected application(s), if any.



(M A CHOWDHARY)
JUDGE

JAMMU
29.08.2026
Naresh/Secy.

Whether order is speaking: Yes
Whether order is reportable: Yes