

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

Case:- HCP No. 33/2026

Mohd Asgar alias Tola

.....Petitioner

Through: Mr. Pranav Kohli, Sr. Advocate with  
Mr. Aftab Malik, Advocate

**Vs**

UT of J&K & Ors.

.....Respondent(s)

Through: Mr. P.D. Singh, Dy. AG

**Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**

**ORDER  
(12.05.2026)**

1. This writ petition invoking habeas corpus jurisdiction under article 226 of the Constitution of India is seemingly very innocuous looking writ petition whereby the petitioner, on account of his preventive detention having taken place pursuant to the detention order **No. PSA 32 of 2023** dated **24.11.2023** issued by the respondent No.2- District Magistrate, Jammu with the petitioner getting detained on **19<sup>th</sup> April 2026**, has come forward seeking quashment of detention order and his consequent release from the custody which otherwise is meant to last for a period of one year by reference to the grounds of detention being related to maintenance of Public Order but underbelly of the case reflects complicity and duplicity of the Police itself in mocking the rule and writ of law for the reason which this Court would be setting out herein next.

2. A case for seeking preventive detention of the petitioner was put forth by the Senior Superintendent of Police (SSP), Jammu, who vide his letter **No. CRB/Dossier/2023/64/DPOJ dated 23.11.2023** dated **23.11.2023** had reported to the respondent No. 2- District Magistrate, Jammu that the petitioner is a hardcore criminal, desperate character and history sheeter and is habitual of indulging in acts of violence such as murder, attempt to murder, assault, stabbing, rioting, burglary, violation of Arms Acts, land grabbing and other criminal cases. In this regard, following FIRs came to be highlighted in the dossier:

- a. **FIR No. 259/2002** of Police Station, Trikuta Nagar, Jammu;
- b. **FIR No. 119/2011** of Police Station, Channi Himmat, Jammu;
- c. **FIR No. 105/2012** of Police Station, Channi Himmat, Jammu; सत्यमेव जयते
- d. **FIR No. 39/2014** of Police Station, Channi Himmat, Jammu;
- e. **FIR No. 45/2021** of Police Station, Channi Himmat, Jammu;
- f. **FIR No. 182/2021** of Police Station, Channi Himmat, Jammu;
- g. **FIR No. 120/2022** of Police Station, Channi Himmat, Jammu and
- h. **FIR No. 174/2023** of Police Station, Channi Himmat, Jammu.

3. Lodging of **FIR No. 174/2023** was by complainant- Mohd. Muneer by reference to an incident of **17.11.2023**; the registration of **FIR No. 120/2022** was at the instance of the complainant- Mohd. Ashraf; the registration of **FIR No. 182/2021** was related to missing of public documents/official record found by PSI Arun Kumar Shan; registration of **FIR No. 45/2021** was at the instance of Mohd. Muneer; registration of **FIR No. 39/2014** was at the instance of Saleem Ahmed; registration of **FIR No. 105/2012** was at the instance of Talib Hussain; registration of **FIR No. 119/2011** was at the instance of Ghulam Hussain and registration of **FIR No. 259/2002** was at the instance of Layaqat Ali.

4. By virtue of said dossier so served by the Senior Superintendent of Police (SSP), Jammu vide communication dated **23.11.2023** with respect to the petitioner warranting his detention in order to prevent him from acting in a manner prejudicial to the maintenance of Public Order, the respondent No.2- District Magistrate, Jammu came forward with issuance of detention order **No. PSA 32/2023** dated **24.11.2023**.

5. The execution of this detention order through warrant of arrest was entrusted to the Senior Superintendent of Police (SSP), Jammu to be carried out.

6. Without execution of said detention warrant yet to take place, the petitioner had come rushing to this Court

with a writ petition- **HCP No. 130/2024** filed on **26.09.2024** seeking quashment of detention order at pre-execution stage.

7. In fact, what had led the petitioner to come up with writ petition- **HCP No. 130/2024** was a Proclamation issued under sections **84/85** of the Bharatiya Nagarik Suraksha Sanhita, 2023 by the Court of Chief Judicial Magistrate, Jammu, which was approached with an application on **07.08.2024** on the plea that the execution of the detention warrant is not taking place on account of the fact that the petitioner was absconding and concealing himself, therefore, rendering himself liable to be proceeded against under section 12 of the Public Safety Act, 1978, which takes recourse to the Code of Criminal Procedure, now Bharatiya Nagarik Suraksha Sanhita, 2023 in terms of section 84 & 85.

08. The learned Chief Judicial Magistrate, Jammu, in its order dated **22.08.2024**, is on record saying that SHO, Police Station Channi Himmat, entrusted with execution of detention warrant was finding the petitioner evading his arrest and detention by hiding himself somewhere and not landing in the hands of the Police so as to be detained.

09. Order dated **22.08.2024** passed by the Chief Judicial Magistrate, Jammu, resulted in a public proclamation issued but still the petitioner did not get detained and it did not bother the Senior Superintendent of

Police, Jammu or for that matter, the District Magistrate, Jammu to take the proclamation proceedings to next logical stage which is of attachment of the property, moveable as well as immovable of the petitioner.

10. As nobody from the District Police as well as from the District Magistrate, Jammu applied for said legal course of action meaning thereby the Senior Superintendent of Police (SSP), Jammu and the District Magistrate, Jammu abandoned the application of law related to execution of a detention warrant under Jammu and Kashmir Public Safety Act, 1978 as if law in their hands was a matter of a pleasure play depending upon mood of time.

11. The petitioner did not succeed in his said writ petition which came to suffer dismissal by virtue of a judgment dated **07.03.2025** meaning thereby for a period more than one year even lasting pendency of writ petition- **HCP No. 130/2024**, the District Police of Jammu was not able or least interested to locate the petitioner to be arrest and detained.

12. Against dismissal of his writ petition- **HCP No. 130/2024** by virtue of a judgment dated **07.03.2025**, the petitioner preferred letters patent appeal **No. 79/2025** filed on **22.04.2025** which is said to be pending disposal.

13. In the meantime, while the petitioner on one hand was not getting caught or in other words was not being caught by the District Police, Jammu, on the other hand,

three petitions came to be preferred before this Court, following judgment dated **07.03.2025** in the petitioner's HCP **No. 130/2024**. Said three petitions are as under:-

- i. **CRM(M) No. 466/2025** filed on **27.05.2025** titled "**Mohd. Muneer Vs. UT of J&K & Ors**" for quashment of **FIR No. 45/2021**;
- ii. **CRM(M) No. 509/2025** file on **02.06.2025** titled "**Mohd. Muneer Vs. UT of J&K & Ors.**" for quashment of **FIR No. 174/2023**;
- iii. **CRM(M) No. 774/2025** filed on **08.08.2025** titled "**Mohd Ashraf Vs. UT of J&K & Ors.**" for quashment of **FIR No. 120/2022**.

14. All three aforesaid three petitions followed filing of each other.

15. The petitioners were non-else than the complainants at whose instance FIRs in reference was registered against the petitioner and others.

16. All aforesaid three petitions resulted in disposal by virtue of an order dated **01.07.2025**, **22.07.2025** and **19.11.2025** purportedly on the basis of a written agreement/compromise, two of which dated **19.02.2025** & other one **04.03.2025**.

17. In all three petitions i.e., **CRM(M) No. 466/2025**, **CRM(M) No. 509/2025** & **CRM(M) No. 774/2025**, the petitioner herein figured as one of the respondents and still it was not occurring to the State i.e., the Senior Superintendent of Police (SSP), Jammu as well as to the District Magistrate, Jammu to apprise this Court

while taking cognizance of said two writ petitions- **CRM(M) No. 466/2025** & **CRM(M) No. 774/2025** that one of the respondents, namely, Mohd. Asgar is a person against which detention order under Jammu and Kashmir Public Safety Act, 1978 by reference to FIRs getting quashed, has not come to be detained despite proclamation issued.

18. It is within this factual setting background that the petitioner is said to have been taken into custody by the Police Station, Channi Himmat on **19.04.2026** whereupon the petitioner has now come up with present writ petition filed on **05.05.2026** seeking quashment of the detention order and in interim stay of operation of impugned detention order.

19. This Court has been led to come up with aforesaid lengthy background only for the purpose of showing that there is more what meets the eye in present case without meaning to sound prejudicial as of now to the case of the petitioner seeking quashment of detention but, surely, this Court is within its constitutional authority to scan the role of the District Police as well as the District Magistrate, Jammu's complicity making the law as a mute spectator.

20. Issue notice to the respondent Nos.1 to 3.

21. Mr. Pawan Dev Singh, learned Dy. AG accepts notice on behalf of the respondent Nos.1 to 3.

22. Let reply to this petition be filed separately by the respondent No. 2- District Magistrate, Jammu who would explain in his reply as to what are the proceedings which were undertaken

at his end in furtherance of the proclamation issued against the petitioner under section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

23. The reply to be filed by the respondent No. 3- Senior Superintendent of Police (SSP), Jammu to explain that how SHO Police Station, Channi Himmat reported himself failure to find out the petitioner to be arrested for the purpose of execution of the detention warrant against him.

24. Case Diary file relatable to the execution of the detention warrant maintained and meant to be maintained at the end of SHO, Police Station Channi Himmat, be also kept available on next date of hearing.

25. Thus, the timeline related to the institution of aforesaid three petitions, the end of which is meant to be favorable to the petitioner, is very intriguing in the sense that in all said three petitions, the petitioner had also appeared through counsel as well as the UT of J&K was also appearing but at no point of time it was ever apprised to the learned Single Judge about the fact that there was a preventive detention order chasing the petitioner by reference to the FIR/s for quashment of which the petitioner's petitions have come to be filed.

26. On the other hand, the counsel for the petitioner is also directed to apprise this Court about the fate of letters patent appeal **No. 79/2025** as to whether same has been adjudicated upon or is still awaiting adjudication.

27. List on **29.05.2026**.

28. Failure to come up with the requisite reply from the end of the respondent Nos. 2 & 3 may warrant a direction for personal appearance of the said respondent Nos. 2 & 3.

29. Copy of this order be provided to Mr. Pawan Dev Singh, learned Dy. AG for notice and compliance at the ends of the respondent Nos. 2 & 3.

30. The Registry is directed to tag the record of petition Nos.:-

- I. **CRM(M) No. 466/2025;**
- II. **CRM(M) No. 509/2025**
- III. **CRM(M) No. 744/2025.**

**JAMMU**  
**12.05.2026**  
Sneha

