



2026:JKLHC-JMU:274

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

HCP No. 169/2025

Reserved on: 31.07.2026

Date of pronouncement: 29.08.2026

Date of uploading: 29.08.2026

*Whether the operative part or full
judgment is pronounced **Full***

Pardeep Ambedkari, Aged 41 years,
S/o Sh. Sansar Singh,
R/o Ward No. 07,
Village Chack Desa Singh, Kathua
Tehsil and District Kathua.
A/p lodged in
District Jail, Udhampur.

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

Through: Mr. K. S. Johal, Sr. Advocate with
Mr. Supreet Singh Johal, Advocate.

vs

01.UT of Jammu and Kashmir,
through Principal Secretary to Govt.
Home Department,
J&K Civil Secretariat, Jammu.

..... Respondent(s)

02.District Magistrate, Kathua.

**03.Senior Superintendent of
Police, Kathua.**

04.Superintendent/In-charge,
District Jail,
Udhampur.

Through: Mr. Suneel Malhotra, GA.

CORAM: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

01. Petitioner has invoked writ jurisdiction of this court for the quashment of detention order No. PSA/176 dated 08.12.2025, passed by respondent No. 2-District Magistrate, Kathua, [“the detaining



authority”] whereby he came to be detained under Section 8 of The Jammu and Kashmir Public Safety Act, 1978 (for short, PSA).

FACTUAL MATRIX

02. Background facts of the case are that on 30.10.2025, respondent No. 3-Senior Superintendent of Police, Kathua [“the sponsoring authority”] submitted a dossier to the detaining authority, whereby he submitted a list of following crimes against the petitioner:

- (i) FIR No. 334/2024 under Sections 126(2)/191(2) BNS of P/S Kathua.
- (ii) FIR No. 37/2025 under Sections 126(2)/191(2)/270 BNS of P/S Kathua.
- (iii) FIR No. 95/2025 under Sections 126(2)/191(2)/ 351(2) and 352 BNS of P/S Kathua.
- (iv) FIR No. 486/2025 under Section 299 BNS of P/S Kathua.
- (v) DDR No. 17 dated 13.10.2025 of P/S Kathua.
- (vi) DDR No. 30 dated 28.10.2025 of P/S Kathua.

03. According to the sponsoring authority, in addition to the aforesaid criminal cases and legal action against the detainee, there were several provocative video clips made by him, those were being circulated and becoming viral in public at large and pose a threat to communal harmony.

04. It is allegation of the sponsoring authority that petitioner is a history sheeter and he is known for delivering inflammatory and provocative speeches to incite public sentiments and create disharmony and disturbance in the public order. He has been continuously indulging in



such activities prompting and propagating feelings of enmity on religious and caste lines to spread hatred in the area and despite repeated warnings and legal actions, he continued to disseminate hateful and inflammatory content through social media. Therefore, in order to prevent the petitioner from acting in any manner detrimental to the public order and avert future law and order problem or ethno religious violence, it was necessary to detain him under the provisions of PSA.

05. On the basis of this recommendation, the detaining authority has come to conclude that liberty of a citizen is required to be balanced with communal harmony, especially when a person questions the religious beliefs of a particular community by making derogatory comments against “Lord Ram”. It is alleged that petitioner has shared a video on his Facebook account in which he openly made mockery of Hindu women observing fast on Karwachauth festival, thereby promoting and propagating feelings of hatred and disharmony on the ground of religion. According to the detaining authority, activities of the petitioner are highly prejudicial to the maintenance of public order because by delivering inflammatory speeches and spreading hatred against revered Hindu deities and religious practices, he has created deep resentment among members of the community. His utterances are likely to incite disharmony, disrupt public tranquillity and provoke violence. Actions of the detainee demonstrate and exhibit a consistent pattern of behaviour, whereby he intentionally and



maliciously disseminate hate speeches to create disharmony and enmity among different castes and religions. Assessment of the detaining authority thus, leads him to conclude that it was highly unlikely that petitioner will dissuade from anti-social activities. Therefore, with a view to prevent him from acting in any manner detrimental to public peace and communal harmony, impugned order came to be passed.

GROUND OF CHALLENGE

06. Petitioner has assailed the impugned order *inter alia* on the following grounds:

- (i) That the impugned order is contrary to the basic foundation of law and has the consequence of depriving the petitioner of his right to life and personal liberty in a manner unknown to law. The same, therefore, is violative of Article 14/21 of the Constitution of India and deserves to be set aside.
- (ii) That from the perusal of the impugned order and the grounds of detention, it appears that the same is passed on the recommendation of the District Screening Committee and the dossier of Respondent No. 3. Perusal of the dossier would show that the FIRs on the basis of which the petitioner is detained in terms of Section 8 (3) of the J & K Public Safety Act are not only vague but also stale in nature. They have no live and proximate link with the need to pass the impugned order. In the absence of any live and proximate link in the allegations



leveled in the FIR and the need to impose immediate detention of the petitioner, the detention order deserves to be set aside and quashed.

- (iii) That the position of law is trite that the detention under the draconian provisions of the Public Safety Act cannot be superimposed on the basis of stale allegations without establishing the need to detain on the basis of such allegations. In the grounds of detention, the last known FIR against the petitioner is registered on 30.10.2025. In the said FIR, the allegations against the petitioner are that of commission of offence under Section 299 of the BNS. He is alleged to have outraged religious feeling of a particular community by making derogatory and defamatory expressions/language against “Lord Ram”. The expression so used are alleged to have hurt the religious sentiments of every member of Hindu community, as such, the FIR came to be registered.

Additionally, the basis on which the detention order is passed appears to be incorrect inasmuch as the grounds of detention state that the petitioner is evading arrest in the FIR and as such, it has become of utmost necessity to detain the petitioner under the provisions of the Public Safety Act. This, as a matter of fact, is not correct. The petitioner had approached this Hon’ble Court by means of application for grant of anticipatory bail being Bail App No. 326/2025. In the



said bail application, this Hon'ble Court by means of its order dated 04.12.2025 protected the petitioner by grant of anticipatory bail. Copy of the order dated 04.12.2025 is enclosed herewith for facility of reference and marked as **Annexure-III.**

Perusal of the order (supra) reveals that the same came to be passed in the presence of learned counsel for the respondents. The detaining authority thus was required to have been aware of the said order. The very fact that the grounds of the detention and dossier reflect that the petitioner is evading arrest in the said FIR is incorrect premise on the basis of which the impugned order is passed. Hence, the same deserves to be set aside and quashed.

- (iv) That otherwise too, the last known FIR registered on 30.10.2025 is stale in nature and the detaining authority with complete non-application of mind has passed the order after the period of two months from the last alleged FIR. In this period of two months, what record came before the detaining authority to compel it to pass the detention order is not coming forth. However, the vague and unspecific DDR entries being DDR No. 17 dated 13.10.2025 and DDR No. 30 dated 28.10.2025 are used to source the detention order and to defeat the legal requirement of passing the detention order on the basis of live and proximate link of the last alleged incident. A perusal of the



DDR entries would further show that the allegations in the DDR entries are absolutely unspecific, baseless and vague, without there being any iota of culpability or evidence collected to advance such culpability of the detainee. The DDR extracts are thus not in the cogent reason to pass the order of detention. Reliance has been placed upon the judgment passed by this Hon'ble Court in case titled "*Kewal Krishan Vs. Finance Commissioner ACS (Home Department)*", [2023 SCC Online J & K 941] wherein the position, that the detention order on the basis of unspecific and vague DDR is legally unsustainable, is reiterated. Copy of the judgment is enclosed herewith for facility of reference and marked as **Annexure-IV**.

Viewing thus, the impugned order deserves to be set aside and quashed.

- (v) That further perusal of the detention order, grounds of detention and the dossier would show that though in certain FIRs, the grant of bail to the detainee is reflected, however, the bail orders are never made a part of the record and not even referred to in the impugned order. The detaining authority was thus neither aware of the stage of investigation nor the order of grant of anticipatory bail to the detainee. In the absence of such material being placed before the detaining authority much less considered by it, the detention order deserves to be set aside and quashed. Reliance in this regard has been placed upon the



judgment passed by this Hon'ble Court in case titled "*Manzoor Ahmad Bhat Vs. UT of J & K & Ors.*" decided on 03.05.2024 as also upon the plethora of judgments passed by Hon'ble Supreme Court.

- (vi) That the Hon'ble Supreme Court is clear that the requirement to impose the detention order under the Public Safety Act should be super impelling and only in such cases where the ordinary law has shown to have failed for preventing the detinue from acting in a manner which is otherwise prejudicial to the maintenance of public order. In the instant case, the detaining authority and the respondents herein without taking recourse to the ordinary law have super imposed the detention order. What was expected of the detaining authority and the State functionary is that in case where the petitioner has shown to have jumped the bail if granted or breach the bail conditions, such orders of grant of bail was necessarily required to have been cancelled on allegations made by the respondents before the competent courts. In the absence of any such recourse taken by the respondents, the imposition of the detention order under the provisions of the Public Safety Act cannot by pass the provisions of ordinary law. Reliance in this regard can be placed upon the judgment passed by the Hon'ble Supreme Court in case titled "*V Shanta Vs. State of Telangana*" [2017 Supreme (SC) 568].



A foretari, the respondents have not even considered the grant of anticipatory bail much less satisfied itself materially for the grant of bail before passing the impugned order. The impugned order, therefore, deserves to be set aside and quashed.

- (vii) That the impugned order is an exercise of complete non-application of mind on the part of the detaining authority. The reasoning given by the detaining authority for forming the basis to pass the impugned order appears to one isolated incident where alleged derogatory comments are made by the detainee against “Lord Ram”. Allegedly, the detainee has said that “*Lord Ram was a human and not a God. Had he been a God, Mata Sita would have not been abducted and kidnapped by Ravan*”. This appears to be the basis which has been captured in Video Graphy and have allegedly caused unrest and hurt the religious on the sentiments of a particular community. No evidence of such religious upstream created by such statement found/alleged against the petitioner. As a matter of fact, the freedom of speech and expression under Article 19 (1) (a) of the Constitution of India is a fundamental right. What had impelled the detaining authority not to take recourse under the ordinary law and imposing detention under the provisions of the Public Safety Act is not coming forth. As a matter of fact, the petitioner since is a figure of growing popularity in District



Kathua, his political rivalries including the political parties in power have orchestrated the passing the impugned order on the basis of unsustainable legal principles. Hence, the impugned order deserves to be set aside and quashed.

(viii) That otherwise too, the detaining authority in terms of Section 13 of the Public Safety Act was required to disclose the grounds of detention and explain the same to the petitioner in the language he understands. The requirement of Section 13 is not fulfilled by the detaining authority inasmuch as the information of detention order is delegated by the Respondent No. 2-District Magistrate Kathua to the Respondent No. 3-Senior Superintendent of Police, Kathua for execution without completely providing the material relied by it. As such, the impugned order deserves to be set aside and quashed.

(ix) That the petitioner has though filed a representation before the Home Department, yet, no order has been passed to the knowledge of the petitioner much less conveyed to him deciding the representation. The order of decision of representation and its rejection, if any, is also assailed by means of the present petition. The representation is made on basis of the material which is shared with the petitioner. The same does not qualify substantial compliance of Article 22 (5) of the Constitution of India. Since, no order on such representation is passed much less communicated to the



petitioner. The detention order therefore deserves to be set aside and quashed.

07. Petitioner has prayed for the issuance of appropriate writs for the quashment of impugned order and his consequent release from the detention.

RESPONDENT'S COUNTER

08. Respondent No. 2-the detaining authority has opposed the present petition, primarily on the ground that none of the legal, constitutional or statutory right of the petitioner has been violated because impugned order of detention was passed strictly in accordance with law after due application of mind and upon careful consideration of the dossier submitted by SSP, Kathua. It is reiterated that petitioner is known for delivering inflammatory and provocative speeches, thereby inciting public sentiments and fomenting disturbances which resulted in serious law and order problems, prejudicial to the maintenance of public order and tranquillity of district Kathua. Despite repeated warnings, he has shown no inclination towards reformation and continued to spread hatred through his speeches and social media posts. The impugned order came to be passed after proper satisfaction based on cogent material including multiple FIRs and relevant record, demonstrating a consistent pattern of conduct on the part of the petitioner to threaten public order and communal harmony.
09. It is contended that grounds of detention, detention warrant and relevant documents, comprising 40 leaves, were not only read over



and explained to the detainee in the language which he understood, but his signatures were obtained as a token of receipt. Petitioner and his father namely Sansar Singh were duly informed about his detention as also the grounds on which detention order was issued. He was afforded a full and fair opportunity to make representation against his detention order to the Government within the stipulated time period. In response, he represented against his detention before the competent authority and the Home Department vide its communications dated 29.12.2025 and 06.01.2026 has intimated that his representation was found without merit. The said communication was also endorsed to Superintendent District Jail, Udhampur with a direction to inform the detainee regarding disposal of his representation and the Superintendent concerned vide his office letter No. 07.01.2026 informed the detainee regarding disposal of his representation.

10. It is contention of the detaining authority that an objective and dispassionate assessment of criminal activities of the petitioner leads to inescapable conclusion that there is little to no likelihood of his being dissuaded from engaging in similar activities because he has been actively promoting and propagating feelings of enmity and hatred and disharmony amongst the public on the grounds of religion and caste and he has been instigating unrest which has the potential to culminate in riots and large scale disturbance of public order. According to the detaining authority, petitioner has deliberately



questioned and ridiculed religious beliefs of a particular community by making derogatory remarks against “Lord Ram” and by circulating a video on his Facebook account, whereby he openly mocked Hindu women observing fast on the occasion of “Karwachauth”. It is, thus contention of the respondents that such acts of the petitioner are not only highly provocative in nature but have the tendency to inflame communal passions, thereby posing a grave threat to public order and communal harmony. According to the respondents, legal action taken against petitioner in the past under substantive laws has not proved fruitful in deterring him from indulging in anti-social activities.

11. Respondents have prayed for dismissal of the petition.
12. Having heard learned counsels for the parties, I have gone through the detention record.
13. Though petitioner has assailed his detention on multiple grounds urged in the memo of petition, Mr. Johal, learned Sr. Counsel appearing for the petitioner has restricted the challenge on the following two grounds:
 - (I) Delay on the part of the detaining authority in making the order of detention from the date of recommendation of the sponsoring authority; and
 - (II) Suppression of material fact on the part of the detaining authority that petitioner had already been admitted to pre-arrest bail in the last criminal activity attributed to him.



RIVAL CONTENTIONS

14. Mr. Johal, learned senior counsel at the foremost has taken a dig on 38 days delay on the part of the detaining authority in passing the impugned order of detention from the date proposal for petitioner's detention was made by the sponsoring authority. Mr. Johal in his usual vehemence would submit that such inordinate and unexplained delay by itself is sufficient to vitiate the impugned order because the 'live and proximate link' between the criminal activities attributed to the petitioner and the imperative need for his detention was snapped. He has predominantly relied upon **Sushanta Kumar Banik vs. State of Tripura and Ors.; AIR 2022 SC 4715.**
15. Mr. Suneel Malhotra, learned Government Advocate, per contra, has relied upon **Olia Mallick @ Oliruddin Mallick vs. The State of West Bengal; (1974) 1 SCC 594** to oppose the plea. According to Mr. Malhotra, mere delay in making the order of detention from the date of proposal of the sponsoring authority by itself would not vitiate the detention order.

DELAY IN THE ORDER OF DETENTION

16. Constitutional Courts of the country have consistently maintained that prevention detention is meant to address an immediate ongoing threat to the public order and it is not punitive in nature. It no longer remains *res integra* now that the foundational legal principle to evaluate the validity of preventive detention orders is the doctrine of "live and proximate link", which means that there is unbroken, logical



and timely connection between an offender's past actions and the proposed legal consequences. This doctrine operates on two core principles that; (i) when State proposes to detain a citizen without prosecution or trial with a view to prevent him from acting in any manner detrimental to the public order and avert future law and order problem, there must be a strong immediate connection between his past activities and the imperative need to detain him and (ii) there is no staleness in his past connections which is being used to justify his detention. In other words, if a detaining authority delays too long in passing or executing a detention order the "live and proximate link" to the immediate threat is severed.

17. A three Judges' Bench of Hon'ble Supreme Court in **Olia Mallick** having noticed that activities of the petitioner were extremely dangerous and marked him out as a member of a gang indulging systematically held that mere delay in making the order of detention is not sufficient to hold that District Magistrate must not have been satisfied about the necessity of the detention order. Later Supreme Court in **Rajendra Kumar Natvarlal Shah vs. State of Gujarat and Ors.; 1988 SCC (3) 153** held that the rule as to unexplained delay in taking action is not inflexible in respect of cases like The Conservation of Foreign Exchange and Prevention of Smuggling Activities, enacted for the purpose of effectively dealing with persons engaged in smuggling and Foreign Exchange racketeering who, owing to the large resources and influence have been posing a serious



threat to the economy and security of the Nation. The Apex ruled that courts should not merely on account of delay in making of an order of detention in such cases should assume that such delay if not satisfactorily explained, must necessarily give rise to an inference that there was no sufficient material for the subjective satisfaction of the detaining authority or that subjective satisfaction was not genuinely reached.

18. The necessity of securing arrest of a detainee immediately after the order of detention came to be discussed in **Sk. Nizamuddin vs. The State of West Bengal; (1975) 3 SCC 395**, whereby it was held by Supreme Court that each case depends on its own peculiar facts and circumstances. The detaining authority may have a reasonable explanation for the delay that might be sufficient to dispel the inference that its satisfaction was not genuine.
19. Again, Supreme Court in **Suresh Mahato vs. The District Magistrate Burdwan and Ors.; (1975) 3 SCC 554** ruled that if there is unreasonable delay between the date of the order of detention and date of arrest of the detainee, such delay, **unless satisfactorily explained** would throw considerable doubt on the genuineness of the subjective satisfaction of the district magistrate.
20. Further, Supreme Court in **Bhawarlal Ganeshmalji vs. State of Tamil Nadu and Anr.; (1979) 1 SCC 465** observed that where delay is not only adequately explained but is found to be the result of



recalcitrant or refractory conduct of the detainee in evading arrest, there is warrant to consider the “link” not snapped but strengthened.

21. The common thread running through all the afore-quoted decisions is that, whether delay in securing the arrest of the detainee from the order of detention is unreasonable depends on the facts and circumstances of each case. Hon’ble Supreme Court in **Sushanta Kumar Banik** (supra) following the conspectus of its judicial precedents rendered from time to time cautioned the detaining authorities and the executing authorities that it was imperative on their part to remain vigilant in passing the detention orders and executing the same at the earliest from the date of proposal by the sponsoring authorities because any indifferent attitude on their part would defeat the very purpose of preventive action.

Relevant excerpt contained in para 14 of the judgment, for the ease of reference is reproduced below:

“14. In view of the above object of the preventive detention, it becomes very imperative on the part of the detaining authority as well as the executing authorities to remain vigilant and keep their eyes skinned but not to turn a blind eye in passing the detention order at the earliest from the date of the proposal and executing the detention order because any indifferent attitude on the part of the detaining authority or executing authority would defeat the very purpose of the preventive action and turn the detention order as a dead letter and frustrate the entire proceedings.”

22. Carrying the enunciation forward, Supreme Court applied the same principle, regarding delay between the order of detention and arrest of



the detenu, to the cases of delay in passing the order of detention from the date of the proposal.

Relevant abstract captured in para 15 is extracted below:

“15. The adverse effect of delay in arresting a detenu has been examined by this Court in a series of decisions and this Court has laid down the rule in clear terms that an unreasonable and unexplained delay in securing a detenu and detaining him vitiates the detention order. In the decisions we shall refer hereinafter, there was a delay in arresting the detenu after the date of passing of the order of detention. However, the same principles would apply even in the case of delay in passing the order of detention from the date of the proposal. The common underlying principle in both situations would be the “live and proximate link” between the grounds of detention & the avowed purpose of detention.”

(Emphasis Supplied)

23. If present case is approached with the aforesaid principles enunciated by the Apex Court, there is no doubt that there is unexplained delay of 38 days on the part of the detaining authority in making the impugned order of detention from the date SSP, Kathua sponsored and recommended detention of the petitioner, which undoubtedly severed the “live and proximate link” between his alleged criminal activities of the past and the imperative need to detain him now.
24. The recommending officer-SSP Kathua proposed detention of the petitioner on 30.10.2025, whereby he furnished a list of 04 FIRs and 02 DDRs against him. It is intriguing to note that the detaining authority sat over these recommendations of the sponsoring authority and woke up from deep slumber to pass the impugned order,



recommending detention of the petitioner on 08.12.2025. There is no explanation worth the name forthcoming from the counter affidavit filed by the respondents or the detention record with respect to admitted delay of 38 days on the part of the detaining authority.

25. It is contention of the respondents that petitioner has been continuously indulging in unlawful and anti-social activities, prompting and propagating feelings of enmity on religious and caste lines and spreading hatred in the area. Allegation against the petitioner is that he is known for delivering inflammatory and provocative speeches, thereby inciting sentiments of a particular community to erode social harmony and create divisions within the community. He made derogatory comments against “Lord Ram” and also shared a video on his Facebook account in which he openly made mockery of the Hindu women observing fast on Karwachauth festival, whereby he promoted and propagated feelings of hatred and disharmony on the ground of religion.
26. No doubt allegations against the petitioner are serious in nature, however, if activities of the petitioner were so highly prejudicial to the maintenance of public order and District Magistrate was actually and genuinely concerned, he was expected to act with greater promptitude in making the order of detention immediately after it was brought to his notice and a proposal for his detention was made by the sponsoring authority. The petitioner in such a case would not have been allowed to remain at large for 38 days to carry on with his anti-



social activities. The detaining authority instead slept over the matter for a considerable period and turned a blind eye in passing the detention order against the petitioner at the earliest from the date recommendation for his detention was made by SSP, Kathua. The unreasonable and unexplained delay on the part of the detaining authority to order immediate detention of the petitioner following the proposal of the sponsoring authority, as such does not commensurate to the fact situation of the present case. It throws a considerable doubt not only on the genuineness of the requisite satisfaction of the detaining authority but also on his credibility in passing the impugned order of detention after a considerable period, which results in snapping the “live and proximate link” between the grounds of detention and purpose of detention. Thus, impugned order stands vitiated and deserves to be quashed on this ground alone.

Suppression of material facts

27. Another ground urged by Mr. Johal, learned senior counsel to assail the impugned order is that sponsoring authority is guilty of suppression of material facts from the detaining authority that petitioner was already admitted to pre-arrest bail by this Court on 04.12.2025 in the last FIR No. 486/2025, i.e., four days before the impugned order came to be passed on 08.12.2025.
28. Mr. Malhotra, learned GA has vehemently argued that pre-arrest bail order passed by this Court on 04.12.2025 was not mentioned in the impugned order because screening committee of the district had



already submitted its report to the sponsoring authority on 30.10.2025, who on the same day made recommendation for the detention of the petitioner.

29. It is settled proposition of law that withholding material documents like bail applications, bail orders or bail rejection orders not only prevents the detaining authority from applying its mind fairly but also denies the detainee his right to make an effective representation, which is violative of Article 22(5) the Constitution of India. Courts have consistently maintained that preventive detention cannot be used as a convenient shortcut to bypass the standard legal procedures like opposing a bail plea or petitioning a Court for cancellation of an existing bail order.
30. Hon'ble Supreme Court in **Sushanta Kumar Banik** (supra) in a similar fact situation has held that if relevant facts which would have weighed the satisfaction of the detaining authority is withheld by the sponsoring authority or ignored by detaining authority before issuing the detention order, the requisite subjective satisfaction of the detaining authority, the formation of which is a condition precedent to the passing of the detention order gets vitiated.

Relevant observation contained in para 26 reads as below:

“26. From the above decisions, it emerges that the requisite subjective satisfaction, the formation of which is a condition precedent to passing of a detention order will get vitiated if material or vital facts which would have bearing on the issue and weighed the satisfaction of the detaining authority one way or the other and influence his mind are either withheld or suppressed by



the sponsoring authority or ignored and not considered by the detaining authority before issuing the detention order.”

31. Back to the case on hand, the last activity attributed to the petitioner is FIR No. 486/2025 with respect to an incident dated 03.10.2025. The petitioner in the said case, in bail application No. 326/2025 came to be granted anticipatory bail by this Court on 04.12.2025. The impugned detention order dated 08.12.2025 is ominously silent about this vital aspect of the matter that petitioner had already been enlarged on bail by this Court in anticipation of arrest in the last FIR attributed to him.
32. The sponsoring officer is legally and constitutionally obligated to keep the detaining authority updated and informed of fresh or subsequent developments that occur after his initial proposal and before the detention order. Failure on his part to disclose vital new facts that affect the grounds of detention is sufficient to vitiate the entire preventive detention order because subjective satisfaction of the detaining authority to curtail an individual's liberty must be based on a comprehensive, accurate and up to date understanding of the facts. Detaining authority cannot legally pass a valid detention order if it is kept in dark about some crucial events those happened after initial proposal of the sponsoring officer.
33. Petitioner has also been branded a history sheeter in the grounds of detention. Learned GA, during the course of arguments produced a communication bearing No. 2124/5-1/PSK dated 28.10.2025 of SHO



Police Station, Kathua to indicate that history sheet against petitioner came to be opened on 28.10.2025 i.e., two days before the sponsoring authority recommended his detention.

34. A perusal of the record reveals that neither the order of pre-arrest bail passed by this Court on 04.12.2025 nor the relevant record with respect to opening of history sheet against the petitioner has been put up before the detaining authority, which prevented it from applying its mind fairly and denies the petitioner his right to make an effective representation which amounts to infringement of Article 22(5) of the Constitution of India.
35. There is another aspect of the matter which needs attention. This Court while granting pre-arrest bail to the petitioner in the last FIR attributed to him, recorded in explicit terms that “there appears to be no necessity of the petitioner/accused in custody in connection with investigation in the FIR” and petitioner came to be enlarged on bail subject to various terms and conditions embodied in the order. Before ordering preventive detention of an individual enlarged on bail on the same allegations, the detaining authority is obliged to consider as to whether the terms and conditions contained in the bail order were sufficient to avoid preventive detention or insufficient to restrain him from further involvement in similar activities and then enter any satisfaction, howsoever subjective it is.
36. In the circumstances of the case, I find legal force in the argument of Mr. Johal, learned Sr. Counsel that timing of the impugned PSA



detention of the petitioner just four days after he was admitted to pre-arrest bail by this Court suggests a colourable exercise of power by the detaining authority designed to circumvent the effect and consequence of the bail order.

37. Thus viewed, this Court is of the considered opinion that concealment of vital fact of a bail order by the sponsoring authority from the detaining authority, invalidates preventive detention order for the simple reason that this omission not only disables the detaining authority from making a legally sound “subjective satisfaction”, but also violates constitutional rights of the detenu. If sponsoring authority suppresses the fact that accused was released on bail in a previous case or in the same case the resulting detention order is rendered illegal and is liable to be quashed.
38. Viewed from any angle the impugned order does not sustain in the eyes of law. Hence, present petition is allowed and impugned order is quashed. Respondents are directed to immediately release the petitioner from detention, provided he is not involved in any other offence.
39. Detention record be returned.



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40. Disposed of.

(Rajesh Sekhri)
Judge

Jammu
29.08.2026
Sushant

Whether the judgment is speaking? Yes
Whether the judgment is reportable? Yes

