

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

*Reserved on: 16.07.2026
Pronounced on: 23.07.2026
Uploaded on: 23.07.2025*

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

HCP No. 140/2025

Arjun Kumar, through his father
Sham Lal.

...Petitioner(s)

Through: - Mr. Nikhil Choudhary, Advocate

Vs.

UT OF J&K & ORS

...Respondent(s)

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

CORAM:HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. Through the medium of the present petition, the petitioner has challenged the order No. PSA 14 of 2025 dated 12.09.2025 (for short, "the detention order") passed by the District Magistrate, Jammu (hereinafter referred to as "the detaining authority"), whereby the petitioner has been detained under Section 8(1)(a) of the Jammu and Kashmir Public Safety Act, 1978, with a view to prevent him from acting in any manner prejudicial to the maintenance of public order.
2. The detention order has been assailed primarily on the grounds that the constitutional and statutory safeguards governing preventive detention have not been complied with. It is contended that the grounds of detention were neither furnished nor explained to the detinue in a language understood by

him, thereby depriving him of his valuable constitutional right to make an effective representation against the order of detention. It is further pleaded that the material relied upon by the detaining authority, including copies of the FIRs, seizure memos, FSL reports, site plans, bail orders and other relevant documents, was not supplied to the detainee. According to the petitioner, the grounds of detention are vague, stale and founded upon irrelevant material, which vitiates the subjective satisfaction recorded by the detaining authority. It is also urged that the petitioner was not informed of his right to make a representation before the Advisory Board. It is further contended that the dossier and the detention order bear the same date, i.e., 12.09.2025, which, according to the petitioner, clearly reflects a mechanical exercise of power and complete non-application of mind by the detaining authority.

3. Respondent No. 2 has filed the counter affidavit, wherein it is stated that the detention order has been passed after due application of mind and on the basis of the subjective satisfaction arrived at by the detaining authority upon consideration of the dossier submitted by the Senior Superintendent of Police, Jammu. It is further stated that the detainee is a habitual and notorious criminal involved in serious offences, including attempt to murder, assault and use of illegal firearms and sharp-edged weapons. It is pleaded that six FIRs and six Daily Diary Reports (DDR) have been registered against him and that his criminal activities have created fear and insecurity amongst the public, thereby adversely affecting public order. It is further stated that all the constitutional and statutory safeguards were duly complied with, the

grounds of detention along with the material relied upon, were supplied to the detainee, and the contents thereof were explained to the petitioner in the language understood by him.

4. Mr. Nikhil Choudhary, learned counsel appearing for the petitioner, reiterated the grounds urged in the petition and submitted that the detainee was deprived of his valuable constitutional right to make an effective representation as neither the grounds of detention nor the material relied upon by the detaining authority were supplied to the detainee. Learned counsel further submitted that the allegations against the detainee, even if accepted in their entirety, constitute a breach of “law and order” and do not affect ‘public order’ at all. He has also submitted that the mere fact that the order of detention and dossier bear the same date, is sufficient in itself to vitiate the order of detention. In support of his submissions, reliance has been placed upon the judgments of the Supreme Court in **Ameena Begum v. State of Telangana and others**, 2023 LiveLaw (SC) 873, and of this Court in **Hilal Ahmad Laway v. State of J&K and others**, HCP No. 112/2019, decided on 07.06.2019.

5. Per contra, Mr. P. D. Singh, learned Dy.AG, submitted that the antecedents of the detainee clearly establish that he is a habitual offender, whose activities have consistently disturbed public order. It was submitted that adequate material existed before the detaining authority to conclude that preemptive detention was necessary to prevent the detenu from repeating similar acts. He further submitted that the detention order, grounds of

detention and whole material relied upon were duly furnished to the detenue and explained to him in a language understood by him.

6. I have heard learned counsel for the parties, perused the pleadings and carefully examined the detention record produced by the learned Dy. AG
7. The primary contention of the petitioner is that the detenue was not furnished with the material relied upon by the detaining authority, thereby depriving him of the opportunity to make an effective representation against the detention order. A perusal of the detention record, however, belies the said contention. The receipt forming part of the detention record clearly shows that the detenue received 155 leaves, including the detention warrant, notice of detention, grounds of detention, police dossier and all other relevant documents. The receipt further indicates that the contents of the grounds of detention were read over to the detenue in English language and explained in Hindi/Dogri language, which he fully understood. The petitioner has not produced any material to rebut the official record. Consequently, this ground fails.
8. Next, it was contended that the petitioner was not informed of his right to make a representation to the detaining authority. Learned counsel placed heavy reliance upon the receipt of the grounds of detention, which merely records that the petitioner was informed of his right to represent to the Government alone. However, the notice of the detention order reveals a contrary position, clearly demonstrating that the petitioner was apprised of his right to make a representation not only to the Government but also to the

District Magistrate. Consequently, this contention, being belied by the record, is rejected.

9. It was further submitted by the learned counsel that the identity of dates on the police dossier and the detention order demonstrates a rubber-stamping exercise, devoid of independent application of mind. This argument is wholly untenable. The mere fact that the dossier and the detention order share the same date cannot lead to an automatic presumption of arbitrariness. What is paramount is whether the detaining authority subjected the material to independent scrutiny before recording its subjective satisfaction. A reading of the grounds of detention reveals a conscious and independent assessment of the detenu's continuous course of conduct, rather than a mere copy-paste of the police report. Consequently, this submission, being without force, is rejected.
10. Another submission of learned counsel for the petitioner is that the allegations against the detenu, at best, constitute a breach of law and order and do not impinge upon public order. This submission does not merit acceptance. The allegations against the petitioner as that he is member of organized criminal "Khauf Gang". Although reference has been made to six FIRs in the grounds of detention, FIR No. 17/2025 assumes particular significance. The allegations contained therein disclose that on 31.01.2025, while a police party was on routine patrolling duty near Tube Well, Alawal Chak, two persons riding a motorcycle allegedly opened indiscriminate fire upon the police party with the intention of killing the police personnel. The police retaliated in self-defence, resulting in one of the accused sustaining a

bullet injury, whereafter both the accused, including the petitioner herein, were apprehended. During investigation, illegal firearms and live cartridges were recovered from their possession. In the grounds of detention, it is recorded by the detaining authority that the petitioner was granted bail by the Court of learned 2nd Additional District, Judge Jammu in FIR (supra) vide order dated 15.07.2025 and the SHO concerned has applied for cancellation of bail.

11. The record discloses that the detenu is actively associated with an organized criminal gang and was involved in firing indiscriminately upon police personnel on duty. Such gravamen cannot be viewed through the narrow prism of an ordinary crime against individual victims. On the contrary, such overt acts send shockwaves of terror through the community and disrupt the peaceful flow of societal life, squarely impacting public order. It is an established principle that while every disturbance of public order involves a breach of law and order, every crime affecting law and order does not inherently disturb public order. Here, the detenu's violent conduct transcends ordinary law enforcement issues and falls squarely within the ambit of public order. The act of opening fire upon law enforcement agencies is, in itself, sufficient to instill a sense of fear and insecurity in the citizenry, and inherently possesses the propensity to disturb public order. If these individuals are permitted to remain at large, total breakdown of public order would follow. A perusal of the detention record reveals that the detaining authority subjected the detenu's past conduct, criminal record, and recent activities to independent scrutiny before forming its subjective satisfaction

that his remaining at large posed a real threat of recurrent prejudicial behavior. The petitioner's contention, therefore, stands rejected.

12. In “**Arjun S/o Ratan Gaikwad vs. the State of Maharashtra and others**”, **2024 INSC 968**, the Hon’ble Apex Court has held as under:

“15. As to whether a case would amount to threat to the public order or as to whether it would be such which can be dealt with by the ordinary machinery in exercise of its powers of maintaining law and order would depend upon the facts and circumstances of each case. For example, if somebody commits a brutal murder within the four corners of a house, it will not be amounting to a threat to the public order. As against this, if a person in a public space where a number of people are present creates a ruckus by his behaviour and continues with such activities, in a manner to create a terror in the minds of the public at large, it would amount to a threat to public order. Though, in a given case there may not be even a physical attack.”

(emphasis added)

13. It is well settled that the jurisdiction of this Court under Article 226, when reviewing orders of preventive detention, is inherently circumscribed. This Court does not sit in appeal over the material on record to supplant the subjective satisfaction reached by the detaining authority. The judicial inquiry is strictly confined to verifying adherence to constitutional and statutory guarantees, and ensuring that the order is free from fatal legal infirmities such as *mala fides* or a total non-application of mind. In the instant case, the statutory procedural safeguards having been fully complied with and the impugned order being founded on cogent and reliable material, this Court finds no justification for interfering with the same. The precedents relied upon by the petitioner are wholly inapposite to the facts at hand.
14. For the foregoing reasons, this Court finds no merit in the present petition. The impugned detention order does not suffer from any legal or procedural

infirmity warranting interference in exercise of the writ jurisdiction of this Court. Accordingly, the writ petition is **dismissed**.

15. The detention record be returned to learned counsel for the respondents.

(Rajnish Oswal)
Judge

Jammu
23.07.2026
Karam Chand”

Whether the judgment is reportable: Yes/No

