

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

HCP No. 297/2025

Pronounced on: 09.07.2026

Amir Ahmad Wani

...Petitioner(s)

Through: Mr. Arif Javid Khan, Advocate

Vs.

Union Territory of J&K and Ors.

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

1. Heard learned counsel for the petitioner as well as learned counsel for the respondents.
2. Perused the writ pleadings and documents annexed therewith.
3. The petitioner-Amir Ahmad Wani, came to be detained on **07.08.2025** on the basis of an Order No. 27/DMA/PSA/DET/2025 dated **05.08.2025** passed by the respondent No.2-District Magistrate, Anantnag,

acting in exercise of powers under J&K Public Safety Act, 1978 by holding that petitioner's state of activities was prejudicial to the maintenance of Public Order.

4. The petitioner came forward with the institution of this writ petition on **17.09.2025** after having suffered more than one month of his custodial stay in the District Jail, Udhampur.

5. A case for preventive detention of the petitioner was processed by the Senior Superintendent of Police, (SSP), Anantnag, who submitted a dossier accompanying his letter No. CS/71/2025/13423-28 dated **01.08.2025** by purportedly referring that petitioner is repeatedly involved in illegal sand extraction and his activities are in violation of the Mines and Minerals (Development and Regulation) Act, and in defiance of repeated police actions, court orders and environmental regulations and to this extent even getting booked in FIR No. **241/2024** by Police Station, Bijbehara for alleged commission of offences under section 329(3) and 303(2) of Bharatiya Nyaya Sanhita (BNS), 2023.

6. The respondent No.2-District Magistrate, Anantnag literally adopted said dossier and followed dotted lines to formulate grounds of detention to draw subjective satisfaction that petitioner deserves to be subjected to preventive detention custody to prevent him from acting in any manner prejudicial to the Public Order and that is how the petitioner came to be apprehended on **07.08.2025**.

7. The petitioner's detention came to be approved by the Government vide Government Order No. Home/PB-V/1545 of 2025 dated **11.08.2025**, whereupon the Advisory Board's Opinion being in favour of the Government justifying the detention of the petitioner resulted in confirmation of the petitioner's detention.

8. The petitioner's detention order came to be confirmed by virtue of a Government Order No. Home/PB-V/1635 of 2025 dated **27.08.2025**.

9. The petitioner assails his preventive detention inter alia on the grounds as set out in para 6 (a) to (f).

10. When this Court examines the underlying basis of the petitioner's detention, howsoever brazen the act of the petitioner may be related to violation of Mines and Minerals (Development and Regulation) Act, the same cannot qualify as being prejudicial to the maintenance of Public Order and for that recourse against the petitioner ought to have been taken under the penal provisions drawn from Bharatiya Nyaya Sanhita (BNS), 2023 or other penal provisions so as to book the petitioner and take the charge against him so as to earn his conviction and his consequent imprisonment for a term which would then mean to serve as a deterrent not only to him but also to other persons who may try to follow the petitioner's footsteps in playing such mischief.

11. In the light of the aforesaid, the detention order No. **27/DMA/PSA/DET/2025** dated **05.08.2025**, read with approval/confirmation/ extension order(s) passed by the respondent No.1 with respect to preventive detention of the petitioner are hereby quashed.

12. As a consequence, the petitioner is directed to be restored to his personal liberty by his release from the concerned Jail wherever he is kept detained, for which purpose the Superintendent of the concerned Jail to release the petitioner forthwith.

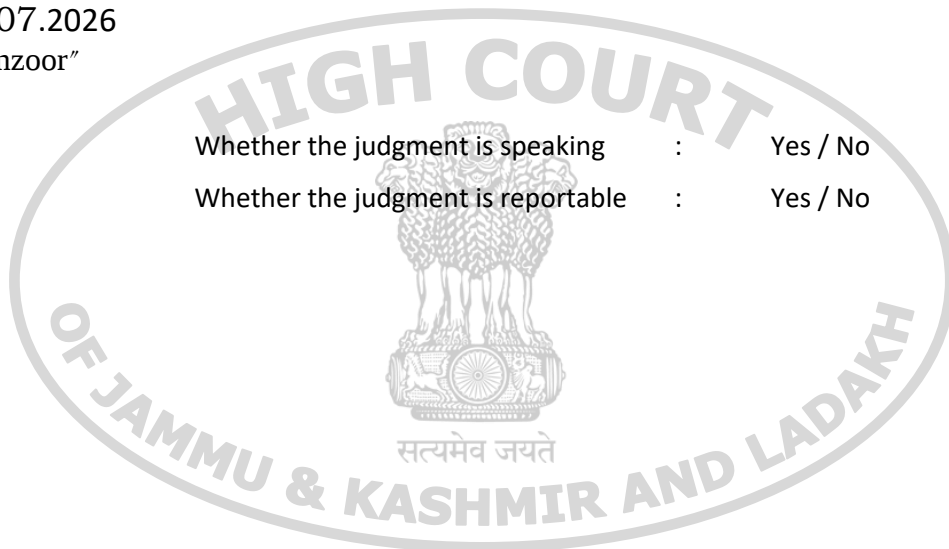
13. Disposed of.

**(RAHUL BHARTI)
JUDGE**

SRINAGAR:

09.07.2026

“Manzoor”



Whether the judgment is speaking : Yes / No

Whether the judgment is reportable : Yes / No