

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

Pronounced on : 29.06.2026

HCP No. 162/2025

Fayaz Ahmad Lone

.....Petitioner

Through: Mr. Sheikh Mushtaq, Advocate

Vs

UT of J&K and others

..... Respondents

Through: Mr. Furqan Yaqoob, GA.

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

01. Heard learned counsel for both sides.
02. Perused the writ record and the documents therewith.
03. The petitioner- Fayaz Ahmad Lone, acting through his father – Ghulam Qadir Lone, came forward with institution of the present writ petition on **29.05.2025** while being in a state of preventive detention custody lodged in District Jail, Rajouri and has sought restoration of his personal liberty.
04. The respondent No. 2 – District Magistrate, Pulwama, in purported exercise of power under section 8 of

the Jammu & Kashmir Public Safety Act, 1978 came up with issuance of an order **No. 30/DMP/PSA/25** dated **07.05.2025** thereby directing the preventive detention of the petitioner in order to prevent him from acting in a manner prejudicial to the security of the State. Issuance of this order led to arrest and detention of the petitioner on **15.05.2025** onwards which the petitioner is in continuing state of preventive detention custody which is meant to last for two years as being the maximum period prescribed under the Jammu & Kashmir Public Safety Act, 1978.

05. The respondent No. 2 – District Magistrate, Pulwama was, infact, approached by the Sr. Superintendent of Police (SSP), Awantipora with a dossier accompanying letter **No. Conf/PSA/25/158-61** dated **29.04.2025** in terms whereof the alleged state of activities of the petitioner being prejudicial to the security of the State were reported for seeking indulgence of the respondent No. 2 – District Magistrate, Pulwama to order the preventive detention of the petitioner.

06. By purportedly acting upon said dossier, the respondent No. 2 – District Magistrate, Pulwama came to formulate the grounds of detention in terms whereof the

petitioner came to be identified as being in close relation with terrorist organization-Jaish-e-Mohd (JeM) whose aim and object is to separate Union Territory of J&K from the Union of India and annex it with Pakistan for achieving which said terrorist organization has indulged in killing numbers of innocent people besides causing extensive damage to the public/private property. The petitioner is said to have developed separatist ideology right from his teenage which got strengthened with passage of time leading to his contact with Jaish-e-Mohd (JeM). The petitioner is alleged to be one of the loyalists of an eliminated terrorist commander –Waqas of Jaish-e-Mohd (JeM) by helping him voluntarily and enabling him to carry out subversive activities.

07. An incident of 2015 resulting in registration of **FIR No. 87/2015** for alleged commission of offence under section 392 & 307 Ranbir Penal Code by the Police Station Tral relatable to the petitioner, the petitioner's criminal antecedents have been highlighted in the grounds of detention.

08. Likewise an incident of 2019 relatable to registration of **FIR No. 36 of 2019** again by the Police Station Tral involving the petitioner is also highlighted in the

grounds of detention. Last incident of conflict of the petitioner with law and enforcement agency is of **18.01.2024** and **23.01.2024** by reference to proceedings under section 107 of the Code of Criminal Procedure, 1973. The petitioner is said to have been warned by the concerned Executive Magistrate Ist Class by seeking a bond from the petitioner.

09. It is this narrative on the basis of which the respondent No. 2 – District Magistrate, Pulwama held that the same afforded him a subjective satisfaction to order preventive detention of the petitioner and, thus, led to the issuance of the detention order **No. 30/DMP/PSA/25** dated **07.05.2025**.

10. The petitioner in his writ petition has assailed his preventive detention on the grounds set out in para 4(a) to (k).

11. The petitioner asserts and assails that the preventive detention is baseless and misconceived without an iota of factual basis available with the District Police Awantipora and in turn with the respondent No. 2 – District Magistrate, Pulwama wherefrom to read that the petitioner was indulgent in activities prejudicial to the security of the State.

12. The respondents in the counter affidavit to the writ petition have come forward defending the exercise of jurisdiction at the end of the District Police Awantipora in submitting a dossier against the petitioner for seeking his preventive detention under the Jammu & Kashmir Public Safety Act, 1978 and consequent issuance of the detention order by the respondent No. 2 – District Magistrate, Pulwama.

13. The grounds of detention in support of the preventive detention order are mirror image of the dossier submitted by the Sr. Superintendent of Police(SSP), Awantipora meaning thereby even the subjective satisfaction of Sr. Superintendent of Police(SSP), Awantipora came to be borrowed literally by the respondent No. 2 – District Magistrate, Pulwama, otherwise a barren dossier against the petitioner bearing no factual reference whatsoever worth name of some recent origin to show case the petitioner in the manner as sounding in the dossier as well as in the grounds of detention, the petitioner was picked up for suffering the preventive detention.

14. To put in simple words, the Sr. Superintendent of Police (SSP), Awantipora through his dossier is meaning to

say that subjecting a citizen to preventive detention custody is a matter of *ipse dixit* for which nothing factual is required to be reported except self entertained impression and assumption on the part of the District Police.

15. There is no reflection of reasoning and rightly so because of lack of facts on the part of the Sr. Superintendent of Police (SSP), Awantipora followed by the respondent No. 2 – District Magistrate, Pulwama that if the petitioner had been subjected to a final order under section 107 of the Code of Criminal Procedure, 1973 for keeping good behavior so as to ensure that he desists from attempting to indulge or even indulging in anti-social and anti-national activities, then why the forfeiture of said bond was not resorted to penalize the petitioner not only with financial consequences but also preventive detention by reference to section 107 of the Code of Criminal Procedure, 1973.

16. Personal liberty of a citizen is not a play thing for the District Police and District Magistracy to flirt with least realizing that there is nothing highest in the Constitution of India in terms of a right/s than fundamental right/s guaranteed to citizen/s of India. Any action of the State and its officials which tends to interfere and intermeddle with any

of the fundamental rights in particular fundamental right to life and personal liberty is supposed to be strictly in accordance with law providing and prescribing. Simply because, J&K Public Safety Act, 1978 provides for preventive detention of a person with respect to the contingencies as envisaged therein does not hand out a licence to the District Police and/or District Magistrate or for that matter even the Government to resort to preventive detention as a matter of routine.

17. In the light of the aforesaid, this Court finds that very exercise of jurisdiction at the end of the Sr. Superintendent of Police (SSP), Awantipora followed by the respondent No. 2 – District Magistrate, Pulwama under the J&K Public Safety Act, 1978 was and is vitiated with serious illegality rendering the preventive detention order **No. 30/DMP/PSA/25** dated **07.05.2025** read with approval/ confirmation/ extension order passed by the respondent No. 1 illegal liable to be quashed and are, accordingly, quashed.

18. 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.

19. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

SRINAGAR
29.06.2026
Opinder

Whether the judgment is speaking :	Yes / No
Whether the judgment is reportable :	Yes / No