Sr. No.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Case: **HCP No. 126/2024**

Reserved on: 24.04.2025
Pronounced on: 30.05.2025
(**Through virtual mode**)

Tahir Riyaz Dar ….Petitioner(s)

Through :- Mr. Wajid Mohammad Haseeb, Advocate

V/s

UT of J&K and ors. ….Respondent(s)

Through: Ms. Rekha Wangnoo, GA

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

JUDGMENT

1. This petition is directed against Order No. 17/DMP/PSA/24 dated 04.04.2024, passed by District Magistrate, Pulwama, respondent No. 2, in terms whereof, petitioner, namely, Tahir Riyaz Dar ["the detenue"] came to be detained and lodged in Central Jail, Kotbhalwal, Jammu.

2. The detenue is aggrieved of the impugned order of detention primarily on the ground that the only FIR No. 46/2022, mentioned in the grounds of detention, relates to the period, when he was a juvenile and he came to be released on bail, after assessment of the Superintendent Observation Home. According to the detenue, after he came to be released on bail in the aforesaid FIR, no fresh allegation is alleged against him in the grounds of detention and whatever has been mentioned in the dossier submitted by the police and the consequent

grounds of detention, is general in nature and bereft of any specific allegation on material particulars.

3. Aside, detenue has also questioned the impugned order on the following grounds that:

i. the grounds of detention are vague, non-existent and no prudent man can make an effective representation against such allegation;

ii. impugned detention order suffers from non application of mind because the very basis of satisfaction recorded by detaining authority is vague;

iii. grounds of detention is a replica of the police dossier;

iv. relevant material was not furnished to him so as to facilitate him to make an effective representation, which resulted in the infringement of his constitutional right guaranteed under Article 22(5) of the Constitution of India;

v. neither the detention order was read over and explained to him in the language which he understands nor a translated script of the same was furnished to him in Kashimiri or urdu language, to enable him to make an effective representation; and

vi. neither he was informed of his right to make a representation against the impugned order nor he was provided an opportunity of making a representation post his execution and representation preferred by him was no accorded due consideration.

4. Plea has been opposed, on the other side, by the respondents. Respondents are affront with the contention that impugned detention order has been passed by the detaining authority after due compliance with all the statutory and constitutional provisions. The detenue came to be detained under the provisions of J&K Public Safety Act, 1978 [for short, "PSA"] after adherence to the statutory requirements and constitutional guarantees and keeping in mind the object of lawful preventive detention which is not punitive but preventive in nature. It is contention of the respondents that not only the grounds of detention and the order of detention but the entire material relied by the detaining authority was furnished to the detenue within the statutory period in terms of section 13 PSA. Pursuant to the impugned order, the warrant

came to be executed on 06.04.2024 by SI Abdul Qayoom No. 110/Ast EXK-872788 of DPL Awantipora and he came to be handed over to the Assistant Superintendent, Central Jail, Kotbhalwal, Jammu for lodgement. The contents of detention order/warrant along with grounds of detention were explained to the detenue in the language which he fully understood and he subscribed his signatures on the execution order in lieu thereof. Detenue was also informed about his right to make representation to the detaining authority or the Government. The detenue made the representation and it came to be rejected on 18.04.2024 and rejection order was forwarded to the Jail authorities for handing over the same to the detenue. It is also contention of the respondents that there is nothing substantial placed on record by the petitioner detenue to affirm that any representation of similar nature was made by him to the Home Department, which, according to the respondents, is sufficient to draw inference that detenue did not prefer any such representation and avail the efficacious remedy available to him.

5. It is contention of the respondents that detention case of the detenue was referred to the Advisory Board under Section 15 PSA for its opinion and the Board, constituted under Section 14 PSA, after having considered the material placed before it, in exercise of its powers in terms of Section 16 PSA, came to the opinion that there is sufficient cause for detention of the detenue and it was only after the report/opinion of the Advisory Board that impugned detention order came to be confirmed by the Government vide Order No. Home/PB-V/884 of 2024 dated 30.04.2024. It is, thus, contention of the respondents that grounds of detention are precise, proximate and relevant

and there is no vagueness or staleness. The grounds of detention give a complete picture of the activities attributed to the detenue, which, on the face of it, are highly prejudicial to the security of the State, leaving no option for the respondents, but to detain him under the provisions of PSA. It has, thus, been prayed by the respondents that since the impugned order has been passed by the detaining authority only after attaining subjective satisfaction of the facts and circumstances obtaining the case and perusal of the dossier furnished by the concerned police, which was duly supported by the relevant material and in conformity with the law, therefore, the preventive detention of the detenue was of utmost importance.

6. Heard learned counsels for the parties and perused the material as also the detention record.

7. Learned counsels for the parties have reiterated their respective stands in arguments. Learned counsel for the petitioner has relied upon **Anant Sakharam Raut v. State of Maharastra and ors.; AIR 1987 SC 137, Jahangirkhan Fazalkhan Pathan v. The Police Commissioner, Ahmedabad and anr.; AIR 1989 SC 1812, Sama Aruna v. State of Telangana and ors.; AIR 2017 SC 2662, Joyi Kitty Joseph v. Union of India and others; 2025 SCC OnLine 509, 2024 (1) SLJ 380 [HC], Ankit Ashok Jalan v. Union of India and ors.; 2020 (16) SCC 127**.

8. The detenue has questioned the impugned order on the predominant premise that since the only activity attributed to him relates to FIR No. 46/2022, when he was a juvenile and he came to be admitted to bail after assessment report of the Superintendent Observation Home,

there is no proximate link between the detention order and the alleged activities attributed to him.

9. A perusal of the impugned detention order and grounds of detention, however, would transpire that subjective satisfaction of the detaining authority is not only based on the aforesaid FIR against the detenue, which pertains to the year 2022, in which, he came to be released on bail as a juvenile but allegations against him is that after his release on bail in the said case, he was discreetly kept under surveillance and the police/sister agencies gathered inputs that he established contacts with the terrorists operating in the area, kept eyes on the movement of the security forces/police and informed the terrorists about their movements. It also surfaced that he was providing logistics to the banned terrorists organizations, namely, Lashker-e-Toiba (LeT) and the Resistant Front (TRF) and instigated youth of the area to join the ranks to strengthen their cadres. The detaining authority, as such, is of the view that activities attributed to the detenue were highly prejudicial to the security of the State.

10. Relevant excerpts of the grounds of detention, for the ease of reference, are extracted below:

> "**After release, you were kept discreetly under surveillance and in the meantime Police/sister agencies have gathered credible inputs that you could not reform yourself to a desirable extent. You have been indulging in polluting the juvenile minds of the area towards terrorism to keep the pot boiling in the area. As per inputs received, you have again established your contacts with the terrorists operating in the area and have been transporting the terrorists from one place to another place besides keeping eye on the movement of the security forces/police and keeping the terrorists informed about their movement which has prolonged their sustenance.**
>
> **As per reports, you have been providing logistic support to the terrorists of banned terrorist Organizations "Lashker-e0Toiba (LeT)/The Resistance Front (TRF) in a clandestine**

> **manner and have also been instigating youth of the area to join the terrorist ranks just to strengthen their caders. You have deep passion towards terrorism as such it is impossible to bring you in mainstream and for this very reason you have been highly motivated to lend them support in carrying out subversive activities. You even have been trying to revive the militancy again which has been brought down to a considerable extent.**
>
> **The activities as projected in the forgoing Paras of the instant dossier run heavily against you and are highly prejudicial to the Security of the State. Being highly motivated to carry out the illegal designs, you are not likely to desist from indulging in anti social activities and the normal laws are not sufficient to deter you from indulging in such undersirable activities. Therefore, in order to prevent you from indulging in the activities, which are prejudicial to the Security of State, it is necessary to detain you by invoking the provisions of J&K Public Safety Act, 1978.**"

11. True, it is that a single act of crime may not be sufficient to justify detention under PSA. However, Hon'ble Supreme Court in a series of pronouncements have clarified that given the facts and circumstances obtaining a case, a single organized activity may suffice to sustain an order of detention. In this respect, we may gainfully refer to **Debu Mahato v. State of W.B.; (1974) 4 SCC 135, Anil Dely v. State of W.B.; (1974) 4 SCC 514** and **Saraswathi Seshagiri v. State of Kerala; (1982) 2 SCC 310**.

12. If the grounds of detention are glanced over, with the aforesaid principle of law in mind, it is manifest that the detenue, in the present case, after he was admitted to bail, did not desist from anti national activities and was found involved in various activities of similar nature. He was put on discreet surveillance, which revealed that he was not only providing logistic support to the banned terrorists organizations, namely, LeT and TRF in a clandestine manner but found instigating the youth to join terrorist ranks to strengthen their cadres. It was on the said basis that the detaining authority came to the conclusion that normal law of land

was not sufficient to deter him from indulging in the activities, which were prejudicial to the National and State security.

13. The contention of the petitioner that the very basis of satisfaction recorded by the detaining authority is vague and does not reflect the application of mind, lacks merit for the simple reason that if detaining authority, on the basis of the police dossier and the material placed before it, is satisfied that detenue by himself or in the company of his associates does not shun the path of violence and desist from anti national activities and ordinary law of the land is proved inadequate to reform him, detaining authority is justified to have a recourse to the provisions of PSA. In this view of the matter, the reliance of learned counsel for the petitioner on **Jahangirkhan Fazalkhan Pathan** (supra) and **Anant Sakharam Raut** (supra) is of no benefit to the petitioner. The detaining authority is not obliged to provide the date and time of a detenue providing logistics to terrorists organizations or keeping the terrorists informed about the movement of the security forces or police officials. The grounds of detention, in the present case, by no stretch of imagination, can be termed as vague.

14. It needs to be understood that the very concept of maintenance of public order is to prevent a person from indulging in anti-national activities and not to punish him. Here it may be apposite to have a glance of Section 8 of PSA, which reads as under:-

> **"8. Detention of certain persons.-**
> **(1) The Government may -**
>
> **(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to**
>
> **(i) the security of the State or the maintenance of the public order; or**
> **(ii) [omitted];**

(a-1) if satisfied with respect to any person that with a viw to preventing him from-

(i) Smuggling [timber or liquor]; or
(ii) Abetting the smuggling of [timber or liquor]; or
(iii) engaging in transporting or concealing or keeping smuggled timber, or
(iv) dealing the smuggled timber otherwise than by engaging in transporting or concealing or keeping in smuggled [timber or liquor]; or
(v) harbouring persons engaged in smuggling of [timber or liquor] or abetting the smuggling of [timber or liquor]; or

(b) if satisfied with respect to any person who is-

(i) a foreigner within the meaning of the Foreigners Act; 1946, or
(ii) a person residing in the area of the State under the occupation of Pakistan,

that with a view to regulating his continued presence in the state or with a view to making arrangements for his expulsion from the State, it is necessary so to do, make an order directing that such person be detained.

(2) Any of the following officers, namely-

(i) Divisional Commissioners,
(ii) District Magistrate,

may, if satisfied as provided in sub-clauses (i) and (ii) of clause (a) of sub-section (1), exercise the powers conferred by the said sub-section.

(3) For the purposes of sub-section (1),-

(a) [omitted]
(b) "acting in any manner prejudicial to the maintenance of public order" means-

(i) promoting, propagating, or attempting to create, feelings of enmity or hatred or disharmony on grounds of religion, race, caste, community, or region;

(ii) making preparations for using, or attempting its use, or using, or instigating, inciting, or otherwise abetting the use of force where such preparation, using, attempting, instigating, inciting. provoking or abetting, disturbs or is likely to disturb public order;

(iii) attempting to commit, or committing. or instigating, inciting, provoking or otherwise abetting the commission of mischief within the meaning of section 425 of the Ranbir Penal Code where the commission of such mischief disturbs, or is likely to disturb public order;

(iv) attempting to commit, or committing, or instigating, inciting, provoking or otherwise

> **abetting the commission of an offence punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more, where the commission of such offence disturbs, or is likely to disturb public order.**
>
> **(c) "smuggling" in relation to timber or liquor means possessing or carrying of illicit or liquor and includes any act which will render the timber or liquor liable to confiscation under the Jammu and Kashmir Forest Act, Samvat 1987 or under the Jammu and Kashmir Excise Act, 1958, as the case may be;]**
>
> **(d) "timber" means timber of Fir, Kail, Chir or Deodar tree whether in logs or cut up in pieces but does not include firewood;]**
>
> **(e) "Liquor" includes all alcoholic beverages including beer.**
>
> **(4) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the Government."**

15. From a plain reading of sub section 1 of Section 8 PSA, it is manifest that the Government may, if it is satisfied with respect to any person that with a view to prevent him from acting in any manner prejudicial to the security of State or maintenance of public order, it is necessary so to do, make an order directing that such a person be detained.

16. Section 8(3) of PSA enumerates various prejudicial activities that would fall within the mischief of "acting in any manner prejudicial to the maintenance of public order". It includes within its fold prejudicial activities in the nature of promoting, propagating or attempting to create, feelings of enmity or hatred or disharmony on the ground of religion, race, community or region or the activities of making preparations for using or attempting to use or using or instigating, inciting, provoking or

otherwise abetting the use of force where such preparation, using, attempting, instigating, inciting, provoking or abetting, disturbs or is likely to disturb public order. 'Acting in any manner, which is prejudicial to maintenance to public order', also consists of attempting to commit or committing or instigating, inciting, provoking or otherwise abetting the commission of an offence punishable with death or imprisonment for life or imprisonment of a term extending to seven years or more where the commission of such offence disturbs, or is likely to disturb public order.

17. The detaining authority, in terms of sub section 4 of Section 8 PSA, is obliged to report the fact to the Government together with the grounds on which the order has been made including other particulars those in his opinion have a bearing on the matter, and it is provided that no such order shall remain in force for more than twelve days after making thereof, unless in the interregnum, it has been approved by the Government.

18. A perusal of the record reveals that the detaining authority in the present case, endorsed a copy of the impugned detention order to the Principal Secretary to Government, Home Department, for approval and it came to be approved by the Home Department vide Government Order No. Home/PB-V/667 of 2024 dated 08.04.2024 in terms of sub Section (4) of Section 8 of PSA. It is evident as such that the detaining authority, immediately upon issuance of the impugned order, reported the Government and the Home Department, approved the detention order. Therefore, it is manifest that mandatory provisions of PSA have been strictly adhered by the detaining authority.

19. Another plea raised and vehemently argued by Mr. Wajid, learned counsel for the detenue is that detenue made a representation to the detaining authority, which came to be rejected on 18.04.2024, however, despite the fact that he made a request in his representation that in case of decline of his representation, he may be produced before the Advisory board, neither detenue was produced before the Advisory Board nor his representation was forwarded to the Advisory Board, which violated his constitutional right under Article 22(5) of the Constitution of India.

20. Article 22(5) of the Constitution reads as below:

> **"22. Protection against arrest and detention in certain cases:-**
>
> **(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.**
>
> **(2) xxx xxx xxx**
> **(3) xxx xxx xxx**
> **(4) xxx xxx xxx**
>
> **(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.**
>
> **(6) xxx xxx xxx**
> **(7) xxx xxx xxx"**

21. There is no doubt that right to make representation against a detention order is a facet of Fundamental Right guaranteed under Article 22(5) of the Constitution of India and if this right is transgressed, the detention is vitiated.

22. However, Hon'ble Supreme Court in **Veeramani v. State of T.N.; (1994) 2 SCC 337** had an occasion to address a pristine question that Article 22(5) of constitution of India does not provide as to whom a representation is to be made by the detenue. Pertinently, the Apex Court came to the conclusion that such a representation can be made to an

authority, who has the power to approve, rescind or revoke the detention. Therefore, it was held that a representation, in terms of Article 22(5) of Constitution of India, can only be made by the detenue to the Government which has the power to approve or revoke the detention. Relevant excerpt of the judgment, for the facility of the reference is reproduced below:

> **"17. However, there may be scope to contend that even within 12 days, the detaining authority has the power to revoke and therefore in view of the safeguards provided under Article 22(5) the detenu if told, can make a representation within that period to the detaining authority in which case it would be under an obligation to consider the same. It may be noted that Article 22(5) casts an obligation on the detaining authority to communicate to the detenu the grounds and to afford to the detenu the earliest opportunity of making the representation. The article does not say to whom such representation is to be made but the right to make a representation against the detention order undoubtedly flows from the constitutional guarantee enshrined therein. The next question as to whom such representation should be made, depends on the provisions of the Act and naturally such a representation must be made to the authority who has power to approve, rescind or revoke the decision. To know who has such power, we have to necessarily look to the provisions of the Act. So far as the Tamil Nadu Act with which we are concerned, we have already noted that any detention order made by the empowered officer shall cease to be in operation if not approved within 12 days. Therefore, it is clear that the Act never contemplated that the detaining authority has specific power to revoke and it cannot be inferred that a representation can be made to it within the meaning of Article 22(5). The provisions of the Act are clear and lay down that the detention order has to be approved within 12 days and where there is no such approval, it stands revoked. Therefore the representation to be made by the detenu, after the earliest opportunity was afforded to him, can be only to the Government which has the power to approve or to revoke. That being the position the question of detenu being informed specifically in the grounds that he had also a right to make a representation to the detaining authority itself besides the State Government does not arise."**
>
> **(Emphasis supplied)**

23. In **R. Keshava v. M. B. Prakesh; (2001) 2 SCC 145**, detenue straightway made a representation to the Advisory Board instead of appropriate Government or the approving authority. Hon'ble Supreme

Court held that in the absence of any representation made to the appropriate Government, it was justified in confirming the order of detention excluding the representation made to the Advisory Board or an authority, which was neither competent to approve nor revoke or rescind the detention order. Relevant observation reads as below:

> **"17. We are satisfied that the detenu in this case was apprised of his right to make representation to the appropriate government/authorities against his order of detention as mandated in Article 22(5) of the Constitution. Despite knowledge, the detenu did not avail of the opportunity. Instead of making a representation to the appropriate government or the confirming authority, the detenu chose to address a representation to the Advisory Board alone even without a request to send its copy to the concerned authorities under the Act. In the absence of representation or the knowledge of the representation having been made by the detenu, the appropriate government was justified in confirming the order of detention on perusal of record and documents excluding the representation made by the detenu to the Advisory Board. For this alleged failure of the appropriate government, the order of detention of the appropriate government is neither rendered unconstitutional nor illegal."**
>
> **(Emphasis supplied)**

24. It is evident from the afore-quoted pronouncements that it is only the Government who is the authority competent before whom a representation can be made by a detenue and if no representation is made to the Government within statutory period, the Government is justified to approve the detention order.

25. The aforesaid principle of law enunciated by the Apex Court is also manifest from a plain reading of Section 15 PSA, which provides for reference of the grounds of detention, detention order and the representation, if any, made by the detenue to the Advisory Board. Section 15 PSA reads as below:

> **"15. Reference to Advisory Board.**
>
> **In every case where a detention order has been made under this Act, the Government shall, within four weeks [from the date of detention under the order] place before the advisory**

> **Board constituted by it under section 14, the grounds on which the order has been made, the representation, if any, made by the person affected by the order and in case where the order has been made by an officer, also report by such officer under sub-section (4) of section 8."**

26. It is manifest from a conjoint reading of Article 22(5) of the Constitution of India and Section 15 PSA that it is incumbent upon the Government to forward a copy of the representation, if any, made by the detenue to the Advisory Board. In the present case, the petitioner detenue made a representation to District Magistrate, Pulwama which came to be declined. There is nothing on the record to suggest that the detenue made any representation to the Government or the Home Department. Respondents, in their counter affidavit, have taken a specific stand that detenue did not make any representation to the Home Department and nothing substantial was placed on record by the detenue which could affirm the presentation of the said representation. Since the respondents, in their reply affidavit, have confuted the preference of any such representation by the detenue and its receipt by the Home, detenue was obliged to make an endeavour to refute the contention of the respondent-detaining authority and controvert the reply affidavit by filing a rejoinder which he did not choose to do, therefore, the stand of the respondents *qua* non-receipt of the representation by the Home Department remain un-rebutted on the part of the petitioner detenue. In the circumstances, it does not lie in the mouth of the petitioner detenue to raise this plea at this length of time that he was neither produced before the Advisory Board nor his representation was forwarded to the Board for consideration.

27. It is trite to say that it is exclusive domain of the administration to ensure security of the State and maintenance of public peace and

tranquillity and subjective satisfaction of the detaining authority to detain a person, in particular, when a person refuses to desist from his past anti-national activities, is not open to objective assessment of the Court.

28. The writ Court, while examining the material, which was made basis of subjective satisfaction of the detaining authority, would not act as a Court of appeal to find fault with the satisfaction arrived at by the detaining authority on the ground that another view was possible. This Court in exercise of its writ jurisdiction, has no power to substitute its satisfaction with one of detaining authority and decide whether satisfaction of the detaining authority was reasonable or proper or whether in the circumstances of the case a particular person should be detained or not. It lies within the competence of the Advisory Board, and as already mentioned, the Advisory Board in the present case vide its order dated 22.04.2024 has found sufficient ground for detention of the detenue.

29. Next ground raised by learned counsel for the detenue to question the impugned detention order is that neither translated script of the detention order in Kashmiri or Urdu language was furnished to the detenue nor grounds of detention were read over and explained to him in the language understood by him, which according to the detenue is reflection of non-application of mind on the part of the detaining authority.

30. Section 13 of PSA provides that when a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances, for the reasons to be recorded in writing not later than ten

days from the date of detention, communicate to him, in the language understandable to him, the grounds on which the order has been made and shall afford him the earliest opportunity to make a representation against the detention order.

31. It is, indeed, a settled position of law that communication, as envisaged by Section 13 of PSA means bringing home to detenue effective knowledge of facts and grounds on which detention order is made and to a person who is not conversant with English language, the grounds of detention must be given in a language which the detenue understands and in a script that he can read, in order to satisfy the requirements of the Constitution.

32. A perusal of detention record would show that it came to be passed on 04.04.2024 and was executed upon the detenue on 06.04.2024 i.e., within two days from the date of passing of detention order. Notice of detention has been given to the detenue and contents of the detention warrant as also the grounds of detention have been read over and explained to the detenue in Urdu/Kashmiri languages, fully understood by him and signatures of the detenue have been obtained as an acknowledgment of this fact on the receipt of the grounds of detention and other related record. A perusal of the said receipt would also reveal that copy of detention order (01 leaf), notice of detention (01 leaf), grounds of detention (03 leaves), dossier of detention (03 leaves), copies of FIR, statements of witnesses and other related relevant documents (15 leaves) [total 23 leaves], were not only received by the detenue but same were read over and explained to him in the language which he fully understands. In addition, detenue has been informed of his right to make

representation to the Government as well as detaining authority against the detention order, if he so desires.

33. As already stated, the detenue has failed to refute the contents of this receipt by filing any rejoinder to the counter affidavit, therefore, it implies that respondents have scrupulously adhered to the statutory and constitutional obligations, pre and post passing of the detention order, impugned in the present writ petition.

34. The sheet anchor of the arguments of learned counsel for the petitioner/detenue is that there is no recent anti-national or illegal activity attributed to the detenue in the impugned detention order and since the last criminal activity attributed to the detenue dates back to two years, therefore, impugned detention order is an outcome of total non-application of mind on the part of the detaining authority.

35. As already discussed in the preceding paras, the argument put-forth by learned counsel for the petitioner is legally flawed for the simple reason that power of preventive detention is not exercised as a punishment and it may or may not relate to a criminal offence or registration of an FIR, but it is precautionary in nature and is exercised in reasonable apprehension and anticipation. The basis of detention is subjective satisfaction of detaining authority on a reasonable likelihood of detenue to act in a manner similar to his past activities, which may be prejudicial to the security of the State and detention order is passed to prevent him from indulging in similar activities.

36. A plain reading of the detention order, impugned in the present petition, would show that despite his release from the detention on various occasions, the detenue continued to indulge in similar activities

and did not desist from anti-national activities, as a result he was put on close surveillance, during which it surfaced from reliable agencies that detenue again developed contacts with various terrorist groups and militant outfits to carry out anti-national activities. It has been alleged that detenue after his release from previous involvement, did not shun the path of disturbing peaceful atmosphere of the society and ordinary law of the land did not seem sufficient to deter him, which prompted the detaining authority to pass the impugned detention order. In this view of the matter, the facts and circumstances attending **Sama Aruna** (supra), **Joyi Kitti Joseph** (surpa) and **Ankit Ashok Jalan** (surpa) are clearly distinguishable from the facts and circumstances attending the present case, discussed in detail in the preceding paragraphs.

37. As a matter of fact, the detail of FIR in the grounds of detention as also reference to his past activities and his release from jail, in the grounds of detention, manifests awareness of the detaining authority and application of mind on its part, before the detaining authority embarked upon to pass the impugned detention order. The impugned order in the circumstances, has been passed by the detaining authority, which is based on a reasonable prognosis of his future behaviour, based on his past conduct and in light of the surrounding circumstances.

38. This Court in exercise of writ jurisdiction, under Article 226 of the Constitution of India, has a limited scope to scrutinize the grounds of detention and cannot examine the sufficiency of material. The writ Court does not sit in appeal over the decision of detaining authority to substitute its own opinion when the grounds of detention are precise, pertinent, proximate and relevant.

39. For what has been discussed above, it is found that grounds of detention, in the present case, are not only definite and proximate but free from any ambiguity. The detenue, in the present case, has been informed with sufficient clarity in the language which he fully understands. What weighed, while passing detention order, with the detaining authority are the narrated facts and figures in detail which made it to exercise its jurisdiction in terms of Section 8 of PSA and it recorded subjective satisfaction that detenue was required to be placed under preventive detention in order to prevent him from his prejudicial activities.

40. Viewed from any angle, I do not find any illegality or impropriety in the impugned detention order. Hence, the present petition, being devoid of any merit, is, dismissed, and impugned detention order is upheld.

41. Detention record be returned back to learned GA.

(RAJESH SEKHRI)
JUDGE

Jammu:
30.05.2025
Paramjeet

Whether the order is speaking? ***Yes***
Whether the order is reportable? ***Yes***