



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

CJ Court

**LPA No. 248/2025 in
HCP No. 75/2025
CM No. 6534/2025**

**Reserved on: 24.12.2025
Pronounced on: 29.01.2026
Uploaded on: 29.01.2026**

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

Suraj Masih, Age 29 years

S/o Sh. Roshan Lal R/o Village Hariachak,
Tehsil Marheen, District Kathua. At present
lodged in District Jail, Udhampur Through
his mother Rojje Devi, Age 45 years W/o
Sh. Roshan Lal R/o Village Hariachak,
Tehsil Marheen, District Jammu.

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

Through: Ms. Palvi Sharma, Advocate.

Vs

1. **U.T. of J&K** through
Commissioner/Secretary to Govt. Home
Department, Civil Secretariat,
Srinagar/Jammu. Respondent(s)
2. **Divisional Commissioner, Jammu.**
3. **District Magistrate, Kathua.**
4. **Senior Superintendent of Police,
Kathua.**
5. **Superintendent/Incharge District Jail,
Udhampur.**

Through: Mrs. Monika Kohli, Sr. AAG

**Coram: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT



1. Appellant was detained in terms of order of detention No. PSA/157 dated 20.05.2025 issued by respondent No. 3 under Section 8 of Jammu and Kashmir Public Safety Act (for short 'the Act'). Aggrieved of the order of detention *ibid*, the appellant preferred the writ petition bearing HCP No. 75/2025, titled, "Suraj Masih vs. UT of J&K and others", thereby challenging the same but remained unsuccessful, as the HCP preferred by the appellant was dismissed by the learned Writ Court in terms of judgment dated 01.08.2025.
2. The appellant, being aggrieved of the judgment dated 01.08.2025, has challenged the same on the ground that the learned Writ Court has not rightly appreciated the contentions of the appellant. It is further contended that the investigation in FIR No. 202/2024 registered with Police Station, Kathua under Section 140(4)/118/3(5) of BNS was closed as 'not admitted' and the closure report was accepted by the learned JMIC, Kathua in terms of order dated 20.11.2024.
3. Ms. Palvi Sharma, learned counsel for the appellant has submitted that the offences arising out of FIR No. 136/2021 were compounded by the Court of learned JMIC, Hiranagar, as is evident from the order dated 14.12.2023 but this fact was never brought to the notice of the Detaining Authority and as such, the order of detention cannot be sustained in law. She further contended that the investigation in the last FIR bearing FIR No. 202/2024 was closed as "not admitted" and once the primary basis of the detention order, i.e. FIR No. 202/2024 stood removed, the appellant could not



legally be detained based on previous FIRs alone, as they lacked a proximate and live link with the detention order.

4. *Per contra*, Mrs. Monika Kohli, learned Senior AAG has submitted that the learned Writ Court has rightly determined the controversy, as such, this appeal deserves to be dismissed.
5. Heard learned counsel for the parties and perused the record.
6. Record depicts that respondent No. 4 vide dossier dated 16.05.2025 requested respondent No. 3 to detain the appellant under the Act. By placing reliance upon the dossier, and the recommendations made by the District Screening Committee, respondent No. 3 framed the grounds of detention. In the grounds of detention, the following FIRs and DDRs were relied upon by the Detaining Authority.
 - (i) FIR No. 31/2018 u/s 48(a) Excise Act, Police Station, Rajbagh.
 - (ii) FIR No. 136/2021 u/s 341/323/325/336/382 IPC, Police Station, Rajbagh.
 - (iii) FIR No. 06/2024 u/s 341/307/147/148 IPC, Police Station, Rajbagh.
 - (iv) FIR No. 202/2024 u/s 140(4)/118/3(5) BNS of Police Station, Kathua.
 - (v) DDR No. 10 Dated 20.09.2024 of Police Station, Rajbagh.
 - (vi) DDR No. 10 Dated 06.10.2024 of Police Station, Rajbagh.
 - (vii) DDR No. 35 Dated 11.12.2024 of Police Station, Rajbagh.
7. So far as FIR No. 31/2018 is concerned, the appellant had confessed the guilt and was accordingly sentenced with fine of Rs. 2,500/- . So far as FIR No. 136/2021 is concerned, the offences were compounded in terms of the order dated 14.12.2023 passed by the learned JMIC in the charge-sheet



arising out of the abovementioned FIR. In FIR No. 06/2024, the allegations against the appellant are that on 11.01.2024, the complainant namely, Sohan Lal lodged a written report with Police Station, Rajbagh, stating therein that while one Rajinder Kumar was going from his home towards Hariachack, the appellant and others stopped him and attacked on his head with an iron rod, due to which, he received serious injuries. The appellant was arrested but was released on interim bail as is evident from the docket dated 16.05.2024 issued by the court of learned JMIC, Hiranagar. So far as, FIR No. 202/2024 is concerned, the investigation therein was closed as 'not admitted' as is evident from the order dated 20.11.2024 passed by JMIC, Kathua. Once the proceedings in FIR No. 202/2024 stood closed, as not admitted, the substratum of the detention order has disappeared. The appellant cannot be detained on the strength of earlier FIRs, which lack the requisite proximate live link necessary for the passing of a detention order.

8. The third FIR was registered on 11.01.2024 and the appellant was enlarged on bail only on 16.05.2024, whereas the order of detention was passed on 20.05.2025. In the interregnum, one more FIR bearing No. 202/2024 was registered against the appellant for commission of offence under Section 140(4)/118/3(5) with Police Station, Kathua but the investigation in the said FIR was closed as not admitted and the closure report was accepted by the learned Magistrate. The record reveals that FIR No. 202/2024 was the primary catalyst for the detention order issued by Respondent No. 3. Since that FIR was closed as 'not admitted' and the closure report accepted, the detention order cannot sustain. The remaining



FIR No. 06/2024 pertains to January 2024, in which the appellant was granted interim bail on 16.05.2024. The failure of the authorities to detain the appellant at that earlier stage clearly indicates that the alleged activities were not considered sufficiently prejudicial to the maintenance of public order at the relevant time, and such stale allegations cannot now be resurrected to sustain a detention order once the primary ground has collapsed.

9. Thus, it is clear that the detention order was issued after a delay of nearly one year, breaking the proximity between the alleged activities and the order itself. As the DDRs merely reflect criminal history rather than immediate threats, we find that the 'live link' essential for preventive detention is entirely absent in this instance. Reliance is placed upon the decision of the Apex Court in case titled, '**Saeed Zakir Hussain Malik vs. State of Maharashtra**' reported in **(2012) 8 SCC 233**, the relevant paragraph Nos. 27 and 28 read as under:-

“27) As regards the second contention, as rightly pointed out by learned counsel for the appellant, the delay in passing the detention order, namely, after 15 months vitiates the detention itself. The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each case. Though there is no hard and fast rule and no exhaustive guidelines can be laid down in that behalf, however, when there is undue and long delay between the prejudicial activities and the passing of detention order, it is incumbent on the part of the court to scrutinize whether the Detaining Authority has satisfactorily examined such a delay and afforded a reasonable and acceptable explanation as to why such a delay has occasioned.

28) It is also the duty of the court to investigate whether casual connection has been broken in the circumstance of each case. We are satisfied that in the absence of proper explanation for a period of 15 months in issuing the order of detention, the same has to be set aside. Since, we are in agreement with the contentions relating to delay in passing the Detention Order and serving the same on detenu, there is no need to go into the factual details.”



10. Having scrutinized the judgment passed by the learned Writ Court, we find that the legal issues considered herein have escaped the attention of the learned writ court.

11. In light of the above, we are of the considered view that the judgment impugned in this appeal is not sustainable in the eyes of law and accordingly, the same is set aside. Resultantly, the order of detention bearing Order No. No. PSA/157 dated 20.05.2025 issued by respondent No. 3 under Section 8 of Jammu and Kashmir Public Safety Act is quashed. The appellant shall be released forthwith, if not required in any another case.

12. Record be returned to the learned counsel appearing for the respondents.

13. **Disposed of.**

Jammu
29.01.2026
Neha-II

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Whether the order is speaking:
Whether the order is reportable:

Yes/No.
Yes/No.