

(2026) 02 J&K CK 1652
In the Jammu And Kashmir High Court
Case No : HCP No. 105 Of 2025

Aniket Mottan @ Bablu

APPELLANT

Vs

UT of J&K & Ors

RESPONDENT

Date of Decision : 27-02-2026

Acts Referred:

Jammu & Kashmir Public Safety Act, 1978 — Section 13

Citation : (2026) 02 J&K CK 1652

Hon'ble Judges : Sanjay Dhar, J

Bench : Single Bench

Advocate : Gagan Oswal, P.D. Singh

Final Decision : Allowed

Judgement

Sanjay Dhar, J

1. The petitioner, through the medium of the present petition, has challenged detention order No. PSA 09 of 2025 dated 04.06.2025 issued by respondent No. 2-District Magistrate, Jammu whereby and whereunder the petitioner Aniket Mottan @ Bablu has been placed under detention with a view to prevent him from acting in any manner prejudicial to the maintenance of public order.

2. The petitioner has challenged the impugned order of detention on the ground that whole of the material, forming the basis of grounds of detention, has not been furnished to him, which has deprived him from making an effective representation against the impugned order of detention. It has been further contended that the basis of grounds of detention is certain FIRs registered against the petitioner, who has already been enlarged on bail in all the FIRs. It has been contended that the detaining authority has not discussed the conditions of bail in the grounds of detention, which makes the impugned order of detention unsustainable in law.

3. It has been contended that the detaining authority has not informed the petitioner the time limit during which he had to make a representation against

the impugned order of detention. It has also been contended that the grounds of detention are replica of the dossier of SSP, Jammu. It has also been contended that the detaining authority has not recorded any satisfaction as to why the normal criminal law is not sufficient to prevent the alleged illegal activities of the petitioner.

4. The respondents have contested the writ petition by filing counter affidavit of the detaining authority-respondent No. 2. In the counter affidavit, it has been submitted that the petitioner is a habitual criminal in respect of whom substantive law is likely to prove insufficient to restrain him from continuing his criminal activities. It has been contended that the petitioner poses a serious threat to the society and the public order as his activities are prejudicial to the maintenance of public order and safety. It has been alleged that repeated involvement of the petitioner in criminal activities clearly shows that he is a grave threat to the society. According to the respondents, the mere fact that the petitioner has been granted bail does not nullify the power of the detaining authority to pass the impugned order of detention. It has been submitted that representation of the petitioner was duly considered and the same was found without any merit. It has been further submitted that all the statutory and constitutional imperatives were strictly adhered to while executing the warrant of detention upon the petitioner. It has been submitted that whole of the material, forming basis of grounds of detention, has been furnished to the petitioner and contents of the same have been read over and explained to him in the language he understands. In order to lend support to their contentions, the respondents have produced the detention record.

5. I have heard learned counsel for the parties and perused record of the case including the detention record produced by the respondents.

6. The main ground that has been urged by learned counsel for the petitioner for assailing the impugned order of detention is that representation of the petitioner has not been considered by the respondents with promptitude and this slackness on the part of the respondents vitiates the impugned order of detention.

7. In the above context, if we have a look at the record, the petitioner has made a representation dated 16.07.2025 to District Magistrate, Jammu as well as to the Home Department of the Government. As per the delivery report, the same has been received by the addresses on 18.07.2025. A perusal of the detention record would reveal that Home Department vide its communication dated 22.07.2025 forwarded the representation of the petitioner to Additional Director General of Police, CID, J&K for his comments. The representation, it seems, after receipt of comments of the CID has been considered by the Government on 29.08.2025 and it has been rejected. The order of rejection has been conveyed to the petitioner through Superintendent District Jail, Rajouri on 30.08.2025. The sequence of events shows that there has been a delay of about one and a half month in considering the representation of the petitioner. However, there is no explanation coming forth either in the counter affidavit of respondent No. 2 or in

the detention record as to why it took so long for the Government to take a decision on the representation of the petitioner.

8. The question that arises for consideration is as to whether unexplained delay in disposal of representation of a detainee has any effect on the validity of the order of detention.

9. The Supreme Court in the case of Sarabjeet Singh Mokha vs. District Magistrate, Jabalpur and others, (2021) 20 SCC 98 has held that failure to decide the representation of a detainee within a reasonable time in an expeditious manner strikes at the valuable right of the detainee. This position of law has been consistently followed by this Court in a number of judgments and in this regard, observations made by this Court in Mohd. Tahir Pall Vs. UT of J&K & ors (HCP No. 114/2025) are quoted below:

“From the foregoing analysis of law on the subject, it is manifest that delaying of decision on the representation of the detainee amounts to an infringement of a valuable right which is available to a detainee in terms of provisions contained in Section 13 of the Jammu & Kashmir Public Safety Act, which makes it obligatory on the detaining authority to communicate to the detainee the grounds on which the order of detention has been made within a maximum period of ten days from the date of detention and to afford him the earliest opportunity of making representation against the order of detention. The purpose of furnishing the grounds of detention within a maximum period of ten days is to enable a detainee to make a representation against the order of detention at the earliest opportunity. Thus, a duty is cast upon the detaining authority or the government to consider the said representation at the earliest opportunity. Failure to decide the representation of a detainee within a reasonable time in an expeditious manner strikes at the valuable right of a detainee emanating from the provisions of Section 13 of the Jammu & Kashmir Public Safety Act.”

16. In the present case, there has been unexplained delay of about one and a half month in considering the representation of the petitioner. This slackness on the part of the respondents to decide the representation of the petitioner renders the impugned order of detention illegal.

17. The second ground of challenge upon which the petitioner has laid much emphasis is that the detaining authority has not informed the detainee the time limit within which he could make a representation to it.

18. In the above context, a perusal of notice of detention served upon the petitioner would reveal that the detaining authority has not informed the petitioner about the time limit within which he could make a representation to the said authority. The record shows that while the notice of detention was served upon the petitioner on 11.06.2025, he addressed his representation to the detaining authority only on 16.07.2025. By that time, the detention order against the petitioner was already confirmed by the Government vide its order dated 02.07.2025. Therefore, the detaining authority had become powerless to

consider the representation dated 16.07.2025 of the petitioner. Thus, non-mention of time limit in the notice of detention has caused prejudice to the petitioner inasmuch as he has lost valuable right to make representation to the detaining authority. This omission on the part of the detaining authority vitiates the impugned order of detention. Reliance in this regard is placed upon the ratio laid down by a Coordinate Bench of this Court in the case of Tanveer Ahmed @ Jimmy Vs. Union Territory of J&K & ors [WP(Crl) No. 57/2022 decided on 25.05.2023].

18. Viewed in the aforesaid context, the impugned order of detention becomes unsustainable in law and the same is accordingly quashed. The respondents are directed to release the petitioner from the preventive custody forthwith, provided he is not required in connection with any other case.

17. The petition stands allowed in the above terms. The record be returned to learned counsel for the respondents.