

**(2026) 02 J&K CK 1637**  
**In the Jammu And Kashmir High Court**  
**Case No : HCP No. 84 Of 2025**

Vishal Sharma @ Shooter

APPELLANT

Vs

UT of J&K & Ors

RESPONDENT

**Date of Decision :** 20-02-2026

**Acts Referred:**

Jammu & Kashmir Public Safety Act, 1978 — Section 13

**Citation :** (2026) 02 J&K CK 1637

**Hon'ble Judges :** Sanjay Dhar, J

**Bench :** Single Bench

**Advocate :** Jagpaul Singh, P.D. Singh

**Final Decision :** Allowed

## Judgement

Sanjay Dhar, J

1. The petitioner, through the medium of the present petition, has challenged the legality and validity of order No. PSA 08 of 2025 dated 17.05.2025 issued by respondent No. 2-District Magistrate, Jammu whereby the petitioner has been placed under preventive detention so as 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 grounds that the same has been passed mechanically without proper application of mind. It has been contended that in FIR No. 108/2021 of Police Station, Bari Brahmana, the petitioner has been acquitted, as such, the same could not have been relied upon by the detaining authority while passing the impugned order of detention. It has been further contended that at the time of passing of impugned order of detention, the petitioner was already in custody in another FIR, details whereof have not been mentioned in the grounds of detention, as such, the impugned order of detention is vitiated.

3. It has also been contended that allegations leveled against the petitioner in the FIRs, which have been relied upon by the detaining authority in passing the

impugned order of detention, are not of such a serious nature as would give rise to apprehension of breach to the public order. It has been further contended that the respondents instead of seeking cancellation of bail granted to the petitioner has resorted to passing of the impugned order of detention, which is not permissible in law. It has been contended that most of the documents, which were forwarded to the petitioner, were not legible as a result of which he could not make an effective representation against the impugned order of detention. It has been further contended that the respondents have not adhered to the statutory and constitutional imperatives while executing the warrant of detention against the petitioner.

4. The respondents have contested the petition by filing counter affidavit of the detaining authority. In the counter affidavit, it has been submitted that the petitioner is a notorious criminal involved in various offences like attempt to murder, assault and criminal trespass by using illegal weapons. It has been submitted that five FIRs are registered against the petitioner and his involvement in these cases clearly depicts that he is a habitual criminal and he has no regard for the law. It has been further submitted that the petitioner poses a serious threat to the maintenance of public order as he is a threat to the society at large. It has been submitted that all the documents including the grounds of detention, PSA warrant, dossier, FIRs and other relevant material have been furnished to the petitioner at the time of execution of warrant of detention and the grounds of detention have been read over and explained to him in Hindi as well as Dogri language.

5. The petitioner also filed his rejoinder affidavit in which besides reiterating the contentions raised in the petition, he has contended that there is no mention of one more FIR bearing No. 75 of 2023 registered against the petitioner with Police Station, Miran Sahib in the grounds of detention and the grounds do not indicate that the petitioner was already in custody in the said FIR at the time of passing of impugned order of detention. It has been submitted that in view of the fact that the petitioner was already in custody, there was no compelling reason for the detaining authority to pass the impugned order of detention. It has been further contended that on 10.06.2025, the petitioner has made a representation before respondent No. 1, however, the same has not been decided by the respondents.

6. I have heard learned counsel for the parties and perused record of the case including the detention record, which has been produced by learned counsel for the respondents.

7. Although learned counsel for the petitioner has urged numerous grounds for assailing the impugned order of detention yet during the course of arguments, he has laid much emphasis on the ground that representation of the petitioner against the impugned order of detention has not been considered and decided by the Government with promptitude.

8. There appears to be merit in the aforesaid submission of learned counsel for the petitioner. A perusal of the detention record reveals that representation dated 10.06.2025 made by the petitioner against the impugned order of detention before the Government has been received by the respondents because a copy of the said representation is available in the detention record produced by the Home Department. It appears that on 16.06.2025, a copy of the said representation was forwarded by Home Department of the Government to Additional Director General of Police, CID, J&K for seeking his comments. The record further suggests that the representation of the petitioner was disposed of by the Government only on 02.11.2025 and a communication came to be addressed by Additional Secretary to Government, Home Department to District Magistrate, Jammu on the said date informing him about the rejection of the representation of the petitioner. It seems that information about the rejection of the representation of the petitioner was furnished to him by the Superintendent of the concerned jail. From this, it comes to the fore that representation of the petitioner has been considered by the Government after more than four and a half months.

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

10. 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, the respondents have decided the representation of the

petitioner after more than four and a half months. This slackness on the part of the respondents to decide the representation of the petitioner renders the impugned order of detention illegal.

17. 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.