

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

**Case No: LPA No. 83/2025  
(in HCP No.118/2024)**

*Reserved on: 11.02.202*  
*Pronounced on: 25.03.2026*  
*Uploaded on: 25.03.2026*

*Whether the operative part or  
full Judgment is pronounced : Full*

Mumtaz Ahmed Th. Nisar Ahmed

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

Through: Mr. Sunil Sethi, Sr. Advocate with  
Mr. Lawanya Sharma, Advocate

**Vs**

UT of J&K and others

**..... Respondent(s)**

Through: Mrs. Monika Kohli, Sr. AAG

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

**JUDGMENT**

**PER OSWAL-J**

1. The appellant came to be detained pursuant to Order No. 17/DMP/PSA of 2024 dated 26.07.2024, issued by the District Magistrate, Poonch (respondent No. 2), in exercise of powers under Section 8 of the Jammu & Kashmir Public Safety Act, 1978 (hereinafter referred to as "the Act"), with a view to prevent him from acting in any manner prejudicial to the security of the State of India as well as the Union Territory of Jammu & Kashmir.

2. The appellant challenged the aforesaid order of detention through the medium of HCP No. 118/2024 titled '*Mumtaz Ahmed S/o Nisar Ahmed v. Union Territory of J&K and others*', however, he could not succeed, as the learned Writ Court dismissed the petition vide judgment dated 07.04.2025 (hereinafter referred to as the "impugned judgment").
3. Aggrieved by the impugned judgment dated 07.04.2025, the appellant challenges the same on grounds identical to those urged before the Writ Court. During submissions, Mr. Sunil Sethi, learned Senior Counsel for the appellant, confined the challenge to two specific grounds: first, that the appellant was not supplied with the complete material relied upon by the detaining authority; and second, that the grounds of detention are a verbatim reproduction of the dossier, reflecting a non-application of mind. In support of these contentions, learned Senior Counsel relied upon the judgment of this Court in '*Mohd. Riaz Malik v. UT of J&K and others*' (LPA No. 228/2025, decided on 05.02.2026).
4. Per contra, Mrs. Kohli, learned Senior AAG, argued that the appellant's role as an Over Ground Worker (OGW) made him a key operative for terror groups in District Poonch. The UT's contention is that he actively facilitated logistical support and leaked sensitive information regarding security force movements. Mrs. Kohli submitted that the detention order was a necessary and valid response to these illegal activities. Furthermore, she asserted that the respondents complied with every procedural safeguard

mandated by the Constitution and the J&K Public Safety Act. As the learned Writ Court correctly rejected the appellant's previous contentions, the impugned judgment remains legally sound and does not merit interference.

5. Heard learned counsel appearing for the parties and perused the record.
6. Before evaluating the contentions raised by the appellant, it is necessary to outline the allegations leveled against him. Respondent No. 2 states that the appellant is an Over Ground Worker (OGW) for the banned outfit Jaish-e-Mohammad and consistently receives instructions from a wanted terrorist operative, Haq Nawaz (S/O Mohd Arif, R/O Salwah Mendhar). The said operative is currently evading arrest in FIR No. 42/2023 under Sections 302, 307, 120-B, 121, 122, 436 IPC; 3/4 ESA; 7/25/26/27 Arms Act; and 16/18/20 UA(P) Act, of Police Station Gursai, and is reportedly based in Saudi Arabia. This case pertains to the terrorist attack on an Army vehicle at Tota Wali Gali on 20.04.2023, which resulted in the martyrdom of five Army personnel.
7. It is further stated that intelligence suggests the appellant communicates with terrorist handlers via sophisticated, encrypted technologies, complicating surveillance efforts. Furthermore, the appellant is son-in-law of another OGW, Mohd. Shabir and voluntarily assists terrorists operating in the District Poonch. He is alleged to have regularly provided information on security force movements and facilitated the logistics and transportation of arms

and ammunition. Consequently, the appellant's activities are characterized as posing a direct threat to national security and the security of the Union Territory of Jammu & Kashmir.

8. Having taken into consideration the alleged illegal activities attributed to the appellant, respondent No. 2 proceeded to issue the order of detention. The detention record, produced by Mrs. Kohli, learned Senior AAG, reveals that at the time of execution of the detention order on 29.07.2024, the appellant was furnished with the following documents: the detention order (01 leaf), notice of detention (01 leaf), grounds of detention (03 leaves), and dossier of detention (05 leaves). The record further reflects that the appellant acknowledged receipt of the said documents by appending his signature on the Execution Report. Similarly, the appellant has also appended his signatures in English on the receipt of the grounds of detention and other relevant documents. The detention record produced before this Court further reveals that the detaining authority arrived at its subjective satisfaction on the basis of the dossier and the report of the District Special Branch (DSB). A perusal of the said report indicates that the allegations have been levelled against the appellant, *inter alia*, that he was providing logistic support to the militants.

9. As noted above, Mr. Sunil Sethi, learned Senior Counsel for the appellant, has confined the challenge to both the impugned judgment and the detention order to two specific grounds: (i) that the appellant was not furnished with the complete material i.e. 10

FIRs mentioned in the grounds of detention and dossier, relied upon by the detaining authority while issuing the order of detention; and (ii) that the grounds of detention are a verbatim reproduction of the dossier, thereby vitiating the order for non-application of mind.

**10.** The first contention raised on behalf of the appellant is that the non-furnishing of the entire material relied upon by the detaining authority vitiates the detention order. However, as noted above, Respondent No. 2 derived his subjective satisfaction strictly from the dossier and the special report submitted by the District Special Branch (DSB). It was solely upon consideration of this material that the impugned order was issued. Regarding the appellant's grievance over the non-production of the FIRs mentioned in the grounds of detention, we find that these FIRs were referenced merely to recount the history of terrorist attacks in District Poonch. Crucially, all material actually relied upon by the detaining authority, with the exception of the privileged intelligence report, was duly provided to the appellant.

**11.** It must be noted that OGWs of terrorists organisations act with a level of secrecy that often shields their illegal activities from immediate detection. Their role is foundational; the continued presence of militants in difficult terrain is simply not sustainable without the active support and network provided by OGWs. Recognition must be given to the fact that the activities of Over Ground Workers are primarily identified through intelligence reports. Direct evidence is rarely forthcoming due to the secretive

nature and specific mode of operation adopted by these workers to shield their illegal actions.

12. Learned writ court has relied upon the judgment of the Hon'ble Supreme Court in **Wasi-ud-din Ahmed vs. D.M. Aligarh (1981) 4 SCC 521** and that of the co-ordinate bench of this court in **Mian Abdul Qayoom Vs. UT of J&K and others, 2020(4) JKJ (HC) 127** to hold that the special report prepared by the District Special Branch pertains to intelligence report and was not required to be provided to appellant in light of statutory provision contained in the Act that vests power with the detaining authority to withhold the facts, disclosure of which would be against public interest. In '*Wasiuddin Ahmed v. D.M., (1981) 4 SCC 521*', the Hon'ble Supreme Court has observed as under:

**21. No doubt, the constitutional imperatives of Article 22(5) enjoin the disclosure of all the basic facts and materials which have been taken into account by the detaining authority in making the order of detention, but this right of the detenu is subject to the provisions of Article 22(6). Article 22(6) of the Constitution provides that nothing in clause (5) shall require an authority making an order of detention, to disclose facts which such authority considers to be against the public interest. Under Article 22(6), the District Magistrate was, therefore, not bound to disclose the intelligence reports and it was also not necessary for him to supply the history-sheet, if any.** In *Khudiram Das v. State of West Bengal* the Court, in somewhat similar circumstances, held that the non-disclosure of the history-sheet had not the effect of invalidating the order of detention.

(emphasis added)

13. Section 13 of J&K Public Safety Act provides that the grounds of detention must be disclosed to the detenu as soon as possible, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days

from the date of detention. The grounds of detention were served upon the appellant when he was detained on 29.07.2024 pursuant to the order of detention. Sub-section 2 of section 13 exempts the detaining authority to disclose facts which it considers to be against the public interest to disclose. Mrs. Kohli, learned Senior counsel is correct in her submission that in view of the provisions contained in Section 13 (2) of the Act that the intelligence report of District Special Branch was not provided to the appellant as it would have compromised the public interest.

**14.**In view of the aforesaid legal position, we do not find any merit in the submission advanced on behalf of the appellant that the complete material relied upon by the detaining authority was not furnished to him, thereby depriving him of his valuable right to make an effective representation. Accordingly, the said contention is rejected.

**15.**The final ground urged by Mr. Sethi, learned Senior Counsel for the appellant, is that the grounds of detention are a mere replica of the dossier, thereby reflecting a non-application of mind by the detaining authority. We have carefully examined the grounds of detention alongside the dossier and the detention order. While certain factual similarities are inevitable when both documents arise from the same set of allegations, we do not find the grounds to be a verbatim reproduction of the dossier. The learned Writ Court, upon a similar comparison, reached the same conclusion. Consequently, the judgment relied upon by the appellant is factually

distinguishable and fails to advance the case of appellant, especially given our finding that the grounds of detention were independently formulated.

**16.** We have carefully examined the impugned judgment and find no illegality, infirmity, or impropriety therein warranting interference by this Court. The judgment rendered by the learned Writ Court is well-reasoned and in accordance with law. Accordingly, the appeal is **dismissed**, along with all connected CM(s), if any.

**(Rajnish Oswal)**  
Judge

**(Arun Palli)**  
Chief Justice

**Jammu**  
25.03.2026  
*Madan Verma-Secy*

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

