

## Mohd Ibrahim Gujjar Vs Union Territory Of J&K And Others

**Court:** Jammu And Kashmir High Court

**Date of Decision:** Feb. 17, 2023

**Acts Referred:** Constitution Of India, 1950 â€” Article 14,21, 22, 22(2), 22(5), 226

Jammu And Kashmir Public Safety Act, 1978 â€” Section 8, 8(3)(b),13

Code Of Criminal Procedure, 1973 â€” Section 161

Jammu And Kashmir State Ranbir Penal Code, 1989 â€” Section 120B, 121A, 302, 307, 382

Arms Act, 1959 â€” Section 7, 27

Indian Penal Code, 1860 â€” Section 425

**Hon'ble Judges:** Mohan Lal, J

**Bench:** Single Bench

**Advocate:** Bari Abdullah, Monika Kohli

**Final Decision:** Dismissed

### Judgement

Mohan Lal, J

1. Petitioner by invoking the jurisdiction of this Court in terms of Article-226 of the Constitution of India, has sought the indulgence of this court for

issuance of writ of Habeas Corpus with the prayer for quashment of the impugned detention order No. DMR/45-50 dated 27.04.2022 issued by the

respondent No. 2 (District Magistrate Ramban) for detaining the petitioner u/s 8 of the J&K Public Safety Act 1978 and further commanding the

respondent No. 3 to release the petitioner from Central Jail Kot Bhalwal Jammu on the following grounds:-

(i) that the petitioner is aggrieved of the impugned detention order No. DMR/45-50 dated 27.04.2022 passed by respondent No.2 whereby the

petitioner has been detained under Section 8 of the J&K Public Safety Act 1978 on the grounds that the detention of the petitioner is illegal, it is no

longer res integra that while passing an order for the preventive detention of a person the detaining authority is required to spell out the reasons that he

is likely to indulge in activities prejudicial to the security of the State, neither was the respondent no. 2 aware about petitioner's being a laborer at

the time of the issuance of detention order nor has he spelt out any such reasons which are necessary for putting a person who is already in detention

in preventive detention; the manner in which the respondent no. 2 has passed the detention order which clearly demonstrates his non-application of

mind in exercising jurisdiction under Section 8 of the Jammu and Kashmir Public Safety Act, 1978; respondent No. 2 has used section 8 of the Jammu

and Kashmir Public Safety Act arbitrarily to detain the petitioner when his action violates Article 14 of the Constitution of India, therefore, the

detention of the petitioner under the provisions of the Jammu and Kashmir Public Safety Act is illegal and in view of this the detention order No.

DMR/45-50 dated 27.04.2022 is required to be set aside and directions are required to be issued to the respondents to release the petitioner from

illegal custody forthwith;

(ii) that the covering letter dated 27.04.2022 and grounds of detention attached thereto are in English language which were not at all understandable to

the petitioner and thus the petitioner was prevented from making an effective and meaningful representation, therefore, the detention of the petitioner

is illegal in the eyes of law and in view of this the detention order No. DMR/45-50 dated 27.04.2022 require to be set aside and directions are required

to be issued to the respondents to release the petitioner from illegal custody forthwith;

(iii) that the petitioner was neither supplied with the copies of FIR, recovery memos, statements if any, recorded under Section 161 Cr.P.C. and other

incriminating material collected by the police during investigation based on which the detention order has been passed nor its translated script in the

language (Gojri) which is understandable by the petitioner, the same is mandatorily required under article 22 (5) of the Constitution of India for making

a representation to the competent authority against the order of detention, thus the order of detention renders invalid on this ground also and in view of

this the detention order No. DMR/45-50 dated 27.04.2022 is required to be set aside and directions are required to be issued to the respondents to

release the petitioner from illegal custody forthwith;

2. Respondent No. 02 has filed a counter affidavit, wherein, it has specifically contended, that keeping in view the prejudicial activities of the detenue,

his preventive detention has been ordered so as to deter him from acting/indulging in prejudicial activities, the impugned order of detention does not

suffer from any malice or legal infirmity, as such, challenge thrown to it is totally misdirected and misconceived; petitioner has concealed material

facts, as right to liberty is not an absolute right and it is subjected to reasonable restrictions as envisaged under Article-22(2) of the Constitution of

India, thereby, petition is not maintainable and deserves to be dismissed. It is contended, that Superintendent of Police Ramban vide communication

No.CB/DOSSER/21/5005 dated 20.04.2022 submitted a dossier of activities recommending a case for detention of Mohd Ibrahim S/O Noora Gujjer

R/O Krawah Tehsil Banihal District Ramban under the provisions of J&K Public Safety Act 1978, the dossier has been examined in light of legal

provisions and circumstances related to the case the details of which have been furnished by the District Police, the subject is reportedly involved in

anti-national/anti-social activities creating law and order problems in Banihal, the subject made an attempt to promote enmity between two different

religious groups which in turn could spiral wave of violence and hatred between different social/religious groups; the subject is reported as notorious

criminal and is one of the sympathizers and well-wishers of the outlawed of Jammu and Kashmir Hurriyat Group which aims to liberate the UT of

J&K from Union of India by means of anti-national/anti-social/criminal activities, the subject is involved in anti-national activities within the jurisdiction

of Police Station Banihal and its surrounding areas; the subject is involved in organizing Hartals/Bandhs in Banihal area on the instance and call given

by the Hurriyat leaders from Kashmir Valley. It is contended that the subject is instigating the people of the Banihal area especially the youth against

the democratically established Government of J&K and Union of India, the subject forces and instigates youth of the area to raise anti-national slogans

against the Government of J&K as well as Union of India and in favour of the alien country i.e. Pakistan thereby creating hostile atmosphere in the

Banihal area and its surroundings; due to his active instigation, abetment and provocation the strikes are being organized with the association of other

likeminded persons of the area; there is every apprehension of law & order problem as well as anti-national rallies in Banihal area which will vitiate

peaceful atmosphere having both communities i.e. Muslims and Hindus; the subject is a history sheeter and involved in number of cases at Police

Station Banihal; the subject in connivance with likeminded people of the area has been conducting meetings at unknown places with the intention to

instigate the youth against the Nation and to direct them to the obsession of so-called freedom and if he remains free in society, he would definitely

indulge in criminal activities and would be danger to public peace and tranquility, the presence of subject in society is certainly prejudicial to the

maintenance of public order, peace, tranquility and safety of citizens of the area.

3. Mr. Bari Abdullah, learned counsel for the petitioner has sought the setting aside/quashment of the impugned detention order by vehemently

canvassing arguments, that petitioner/detenué has not been supplied the copy of FIR, recovery memos, statements if any recorded under Section 161

Cr.P.C. and other incriminating material collected by the police during investigation based on which the detention order has been passed nor its

translated script in the language (Gojri) which is understandable by the petitioner which is mandatorily required under article 22 (5) of the Constitution

of India for making a representation to the competent authority against the order of detention, thus the order of detention is rendered invalid on this

ground. It is vehemently argued, that the manner in which the respondent no. 2 has passed the detention order clearly demonstrates he has used this

section arbitrarily to detain the petitioner which is illegal, the impugned detention order and the list of cases attached with it are in the English language,

whereas, the petitioner/detenu only understands Gojri language, the detention order was not read over and explained to the petitioner in Gojri

language which is a pre-requisite for maintainability of the detention order, the non-supply of detention order and all other documents in Gojri language

violates the provisions of law as such the detention order deserves its quashment.

4. Ms. Monika Kohli, learned Sr. AAG, has recapitulated the grounds urged in the grounds of detention/detention order and has strenuously argued,

that the detenu/petitioner is a habitual criminal who has created fear amongst the general public and since he was likely to commit similar offences in

future, therefore, it was important to prevently detain him, as the ordinary law had no deterrent effect on him. It is argued, that the petitioner has no

respect for law and has indulged in case FIR No. 155/2017 under Sections 302, 307, 120B, 121A, 382 RPC r/w 7/27 IA Act of police station Banihal,

petitioner is one of the sympathizer and well wishers of the outlawed Jammu and Kashmir Hurriyat Group which aims to liberate the UT of J&K from

Union of India by means of anti-national/anti-social criminal activities within the jurisdiction of Police Station Banihal and its surrounding areas,

petitioner is instigating the people of Banihal area especially the youth to destabilize the Government of J&K and Union of India, there is every

apprehension that it will create law and order problem and anti national rallies in Banihal areas vitiating the peaceful atmosphere among the both

communities of Muslims and Hindus, therefore, the criminal activities of the petitioner required to be kept under preventive measures, the detention

order passed by respondent No.2 therefore, does not suffer from any illegality and the same requires to be confirmed/upheld.

5. I have heard learned counsel for the parties, perused the averments of the petition, counter affidavit filed by the respondent No. 2, record made

available by the respondents and the relevant law on the subject matter coupled with the judgments relied upon by learned counsel for the parties.

6. The 1st argument urged by learned counsel for petitioner is, that the detention order does not spell out the reasons for detaining the petitioner, the

detaining authority has not applied its mind in exercising jurisdiction under Section 8 of J&K PSA 1978 which vitiates the detention order. It is

pertinent to reiterate here, that the perusal of grounds of detention delineated by respondent No.2 clearly spell out that petitioner/detenu has been

indicted in case FIR No. 155/2017 for commission of offences under Sections 302/307/120B/121A/382 RPC r/w 7/27 Indians Arms Act of Police

Station Banihal, wherein, the criminal activities of the petitioner have been clearly specified, as the petitioner has actively engaged himself in the

activities which are highly prejudicial for the peace, prosperity, tranquility and integrity of the country. The arguments of learned counsel for petitioner

that the detention order/ grounds of detention are without application of mind, are legally untenable, repelled, discarded and rejected.

7. The 2nd argument propounded by learned counsel for the petitioner is, that the covering letter dated 27.04.2022 and grounds of detention attached

thereto are in English language which were not at all understandable to the petitioner, who only understands Urdu or Gojri language, thus the petitioner

was prevented from making an effective and meaningful representation to the Government or the detaining authority, therefore, the detention of the

petitioner is illegal in the eyes of law, the detention order No. DMR/45-50 dated 27.04.2022 therefore, require to be set aside. It is unambiguously

reiterated here, that the detention order bearing No. DMR/45-50 dated 27.04.2022 passed by respondent No.2 District Magistrate Ramban has been

executed by Inspector Neam-ul-Haq No. EXJ-055518 of Police Station Banihal upon petitioner on 04.05.2022 without delay, notice of detention has

been given to petitioner/detenu and contents of detention warrant and grounds of detention had been read over to the petitioner in English and

explained to him in Urdu/Kashmiri language which the petitioner has fully understood and in lieu thereof, petitioner has appended his signature on the

execution report in English, which clearly establishes that the petitioner in addition to Urdu or Kashmiri language also understands English, moreso,

petitioner/detenu has been informed that he can make representation to the Government as well as to the detaining authority against his detention. The

arguments of learned counsel for petitioner, therefore, are legally untenable, repelled, discarded and rejected.

8. The 3rd argument canvassed by learned counsel for the petitioner is, that the petitioner has not been supplied with essential material of detention

record which has debarred him from making effective representation to the Government or to the detaining authority which is serious infraction of

Article 22 (5) of the Constitution of India r/w Section 13 of J&K Public Safety Act 1978 and the same vitiates the detention order. It is apt to reiterate

here, that bare perusal of the detention record demonstrates that the impugned detention order No. DMR/45-50 has been passed by respondent No.2-

District Magistrate Ramban on 27.04.2022 on the strength of material like dossier submitted by respondent No.3-SSP Ramban vide his endorsement

No. CB/Dossier/21/2005 dated 20.04.2022. The grounds of detention have been clearly delineated by respondent No. 2 which read as under:-

Ã¢â¬ÅYou Mohd Ibrahim Gujjar S/O Noor Gujjar R/O Village Krawha, Tehsil Banihal District Ramban, as per dossier prepared by Senior

Superintendent of Police, Ramban do hereby informed that you are reportedly involved in anti-national/anti-social activities, creating law and order

problems in Banihal, that you made an attempt to promote enmity between two different religious groups which in turn could spiral wave of violence

and hatred between different social/religious groups, that you are reportedly as notorious criminal and is one of the sympathizers and well-wishers of

the outlawed of Jammu and Kashmir Hurriyat Group, which aims to liberate the UT of J&K, from Union of India by means of Anti-National/Anti-

social/criminal activities. The subject is involved in anti-national activities within the jurisdiction of Police Station Banihal and its surrounding areas. The

subject is involved in organizing Hartals/Bandhs in Banihal area on the instance and call given by the Hurriyat leaders from Kashmir Valley. The

subject is instigating the people of the Banihal area especially the youth against the democratically established government of J&K, and Union of

India. The subject forces and instigates youth of the area to raise anti-national slogans against the Government of J&K as well as Union of India and

in favour of the alien country i.e. Pakistan, thereby creating hostile atmosphere in the Banihal area and its surroundings. Due to his active instigation,

abetment and provocation, the strikes are being organized with the association of other likeminded persons of the area. There is every apprehension of

law & order problem as well as anti-national rallies in Banihal area, which will vitiate peaceful atmosphere having both communities i.e. Muslims and

Hindus. The subject is a history sheeteer and involved in number of cases at Police Station Banihal. The subject in connivance with likeminded people

of the area has been conducting meetings at unknown places with the intention to instigate the youth against the Nation and to direct them to the

obsession of so-called freedom. Some of the highly objectionable activities of the subject are briefly enumerated as under:-

1. Ã¢â¬ÅFIR No. 155/2017 u/s 302/307/120-B/121-A/382/RPC, 7/27 I.A.Act of P/S Banihal:-

That on 20-09-2017 at 1915 hours a reliable information was received at police station Banihal to the effect that nafri of 14th BN. SSB (F) deployed

for Tunnel protection duty with NAVYUGA company at Tethar when returning from duty towards their Camp, reached near Masque Gund about

1900 hours, were fired upon by some unknown militants, who were equipped with weapon as a result of which one Head Constable Ram Parvesh got

martyred on the spot while ASI Sham Singh got critically injured. The unknown militants took away (1) one Rifle AR-41 Butt No.74,

Reg.No.MBD51-5257, with 03 no of Magazines and 90 cartridges of 7.62 MM (2) one Insas Rifle Butt no.421, Reg. No.16955025 with one magazine

and 20 cartridges of 5.56 MM and fled away from the spot. On this information the above said FIR was registered in Police Station Banihal.

During the course of investigation, it has come to light that militants namely 01-Gazanfar Iqbal Khan S/O Mohd Yaqoob Khan R/O Kaskoot 02- Mohd

Arif Wani S/O Ghulam Hassan Wani R/O Asher 03-Aqib Waheed Najar R/O Kaskoot hatched criminal conspiracy with common criminal intention to

kill the security officials and snatched weapon of SSB personnel's. These militants attacked the SSB party at Gund Thethar and started indiscriminate

firing resulting into the death of Head Constable Ram Parvesh and injuries to ASI Sham Singh, they also snatched (1) one Rifle AR-41 Butt No.74,

Reg.No.MBD51-5257, with 3 no of Magazines and 90 cartridges of 7.62 MM (2) one Insas Rifle Butt no.421, Reg. No.16955025 with one magazine

and 20 cartridges of 5.56 and fled away. All the three militants were arrested from Kaskoot and Nawgam area of Banihal and snatched

arms/ammunition alongwith weapon of offence were recovered from their possession.

During sustained interrogation at JIC Jammu, the above said militants confessed regarding possession of one live grenade which was also recovered

from Asher forest area and two more accused namely Nazir Ahmed S/O Abdul Ahad R/O Verinag and Mohd Ibrahim S/O Noor Mohd Gujjar R/O

Krawah, Tehsil Banihal, District Ramban were also arrested. During investigation, role of both the persons surfaced who assisted all the above three

militants in carrying the attack on security forces. After completing all legal formalities the challen was produced against the accused person namely

Mohd Ibrahim, S/O Noora Gujjar, R/O Krawah, Tehsil Banihal, District Ramban before the Hon'ble Sessions Court, Ramban. The subject is under

trial.

01. The activities of the subject are very harmful and highly prejudicial for the peace, prosperity, tranquility, integrity and security of the UT

particularly in Banihal area.

02. The subject remains instigating and provoking the general masses particularly youths of Banihal area and adjoining area against the Government

and creating/disturbing Banihal area and adjoining area against the Government and creating/disturbing peaceful atmosphere in Banihal area. He also

tries to create communal tension and usually remain busy in recruiting/indulging youth in militancy related activities.

The subject is on the footprints of the Hurriyat leaders of Srinagar who are instigating the youth for stone pelting thereby disturbing the peaceful

atmosphere in Banihal and its surrounding areas, resulting into the obstruction of disturbing the free flow of traffic, free and peaceful running of

business establishments and private establishments. These anti-social and anti-national activities of the subject like strikes are hindrance in the free and

peaceful studies of young school going children. That the subject is still at large and his remaining at large is a great security risk and thus there is a

urgent need to detain him under the provisions of the J&K Public Safety Act.

From the above mentioned facts, it is evident that criminal activities committed by the subject are serious in nature which involves spreading enmity

between the people of different religion/regions which could be detrimental to the regional harmony as well as security of the UT.

Whereas it is brought out through the dossier that the subject is creating hostile environment in Banihal area by arranging hartals, bandh calls and

strikes thereby disturbing a free and peaceful atmosphere

Whereas, the contents of the dossier have been perused with thorough care and having regard to the law governing the situation in the instant case

and the strong inputs received from time to time by various agencies indicate that the subject is arranging and conducting secret meetings of anti-

national elements at various places till date. This clearly shows the oblique motives of the subject to keep the pot of insurgency boiling. Hence the

activities of the subject are highly objectionable, anti-national and prejudicial to the maintenance of the peace in the area as well as UT of J&K.

Therefore, a clear case has been made out that the subject has entered into a criminal conspiracy as a part of large game plan to disrupt the peaceful

environment and incite regional tension which could take more serious turn by creating wedge between different social groups apart from being a

serious impediment to the flow of traffic on National Highway which in turn could hinder the trade and commerce activities between the two regions

of the state as well as with rest of the Country. Banihal is the strategic gateway on the National Highway towards the Kashmir Valley. Therefore, the

activities of the subject have a potential of igniting a cycle of violence in the UT of J&K. Given the historical background of the law and order

situation in the sensitive UT the criminal conspiracy of the subject is clearly made out to be a rare incident of its kind which is aimed at disturbing

public order and peace in the area.

Whereas, Section 8(3) (b) of the J&K Public Safety Act spell out the meaning of "acting in any manner prejudicial to maintenance of public order

which is as follows:-

1). Promoting propagation or attempting to create feeling of enmity or hatred or disharmony on ground of religion, race, cast, community or region.

2). 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 likely to disturb public order.



3). Attempting to commit, or committing or instigating, inciting, provoking or otherwise abetting the commission or, mischief within the meaning of

Section 425 of IPG where commission of such mischief disturbs or likely to disturb public order.

4). Attempting to commit, or committing or instigating, inciting, provoking or otherwise abetting the commission of an offence punishable with death of

imprisonment for life or imprisonment of a term extending to seven years or more, where the commission of such offence disturbs the , or likely to

disturb public order.

The activities of the subject which are anti-national and anti-social and prejudicial to the security and peaceful atmosphere of the Banihal area as such

fit into the legal meaning of being prejudicial to the maintenance of public order. Therefore, there is dire need to prevent the subject from such

activities.

Whereas, perusal of the dossier submitted by Superintendent of Police, Ramban read with the provisions of the J&K Public Safety Act makes it

evident that the subject is involved in acts detrimental to public order.

Detention record further demonstrates that the order of detention dated 27.04.2022 has been served upon the petitioner/detenué on 04.05.2022 without

any delay, whereby, copies of detention order (01 leaf), Notice of detention (01 leaf), grounds of detention (04 leaves), copies of FIRs, statements of

witnesses and other related relevant documents total 06 leaves have been handed over/furnished to the petitioner/detenué through Executing officer,

Inspector Neam-UI-Haq No. EXJ.055518 of Police Station Banihal and receipt thereof has been given by the petitioner/detenué by writing his name in

English which clearly establishes that the petitioner understands English language also. Moreover, the execution report depicts, that the contents of

detention warrant and grounds of detention have been read over to the petitioner/detenué in English and also explained to him in Urdu/Kashmiri

language which he fully understands and in lieu thereof, petitioner has appended his signature on the execution report. In view of the detailed record

submitted by the respondents, it is discernable, that the petitioner/detenué has been supplied whole of the detention record/essential material so as to

enable him to make an effective representation against the said detention order before the Government or Detaining Authority and therefore, no right

much less any right of the petitioner guaranteed to him under Article 22 (5) of the Constitution of India r/w Section 13 of Public Safety Act has been

violated. Arguments of learned counsel for the petitioner that non-supply of record/documents/ essential material to the petitioner in regard to his

detention has violated/infringed his fundamental right and debarred him from making an effective representation, are far from reality, legally

unsustainable, repelled, discarded and rejected.

9. Although right of personal liberty is most precious right, guaranteed under the Constitution, which has been held to be transcendental, inalienable and

available to a person independent of the Constitution, yet the personal liberty may be curtailed, where a person faces a criminal charge or is convicted

of an offence and sentenced to imprisonment. A person is not to be deprived of his personal liberty except in accordance with procedure established

under law and the procedure as laid down in *Maneka Gandhi vs. Union of India*, (1978 AIR SC 597), is to be just and fair. Where a person is facing

trial on a criminal charge and is temporarily deprived of his personal liberty owing to criminal charge framed against him, he has an opportunity to

defend himself and to be acquitted of the charge in case prosecution fails to bring home his guilt. Where such person is convicted of offence, he still

has satisfaction of having been given adequate opportunity to contest the charge and also adduce evidence in his defence. However, the framers of

the Constitution have, by incorporating Article 22(5) in the Constitution, left room for detention of a person without a formal charge and trial and

without such person held guilty of an offence and sentenced to imprisonment by a competent court. Its aim and object is to save the society from

activities that are likely to deprive a large number of people of their right to life and personal liberty. In such a case it would be dangerous for the

people at large to wait and watch as by the time ordinary law is set into motion, the person having dangerous designs, would execute his plans,

exposing general public to risk and causing colossal damage to life and property. It is for that reason, necessary to take preventive measures and

prevent the person bent upon to perpetrate mischief from translating his ideas into action. Article 22 (5) of the Constitution of India, therefore, leaves

scope for enactment of preventive detention law.

10. The essential concept of preventive detention is that the detention of a person is not to punish him for something he has done, but to prevent him

from doing it. The basis of detention is the satisfaction of the executive of a reasonable probability of likelihood of detinue acting in a manner similar

to his past acts and preventing him by detention from doing the same. The Supreme Court in *Haradhan Saha vs. State of W.B.* (1975) 3 SCC 198,

points out that a criminal conviction, on the other hand, is for an act already done, which can only be possible by a trial and legal evidence. There is no

parallel between prosecution in a Court of law and a detention order under the Act. One is a punitive action and the other is a preventive act. In one

case, a person is punished to prove his guilt and the standard is proof, beyond reasonable doubt, whereas, in preventive detention a man is prevented

from doing something, which is necessary for reasons mentioned in the Act, to prevent.

11. Article 22 (5) of the Constitution of India and Section 13 of the J&K Public Safety Act 1978, guarantee safeguard to detainee to be informed, as

soon as may be, of grounds on which order of detention is made, which led to the subjective satisfaction of detaining authority and also to be afforded

earliest opportunity of making representation against order of detention. Detainee is to be furnished with sufficient particulars to enable him to make a

representation, which on being considered, may obtain relief to him. Detention record, made available by learned counsel for respondents, reveals that

detention order was made on proper application of mind to the facts of the case and detainee was detained at the time of execution of detention order,

the material and grounds of detention and also informed that he had a right to represent against his preventive detention. Perusal of detention order

depicts its execution. It further reveals that the copy of detention warrant, grounds of detention, notice of detention, copy of dossier etc. were received

by the petitioner-detainee which were read over and explained to detainee in Urdu/Kashmiri languages, which detainee understood fully in token of

which the signatures of detainee had been obtained. It also divulges that detainee was informed that he can make representation to the government and

detaining authority. The grounds of detention are definite, proximate and free from any ambiguity. The detainee has been informed with sufficient

clarity what actually weighed with Detaining Authority while passing detention order. Detaining Authority has narrated facts and figures that made the

authority to exercise its powers under Section 8 J&K Public Safety Act 1978 and record subjective satisfaction that detainee was required to be

placed under preventive detention in order to prevent him from acting in any manner prejudicial to the security of the State.

12. Further, by in depth perusal of the grounds of detention, one cannot lose sight of the fact that petitioner/detainee actively and covertly takes part in

anti-national/anti social activities and has tried to spoil the peaceful atmosphere of Banihal area, as he has already remained involved in case FIR No.

155/2017 u/s 302/307/120-B/121-A/382 RPC and 7/27 Arms Act which made basis to book him under the Public Safety Act so as to prevent him

from acting in a manner similar to his past acts or engaging in activities prejudicial to security of the State or maintenance of public order. Further, the

sponsoring authority has not only supplied the material, viz; dossier, containing gist of the activities of the detainee, but has also supplied the grounds of

detention. All this material was before the detaining authority when it arrived at subjective satisfaction that activities of the detainee were prejudicial to

maintenance of public order and requires preventive detention of detainee. Moreover, if in any given case a single act is found to be not sufficient to

sustain the order of detention that may well be quashed, but it cannot be stated as a principle that one single act cannot constitute the basis for

detention. On the contrary, it does. In other words, it is not necessary that there should be multiplicity of grounds for making or sustaining an order of

detention. The same views and principles were reiterated by the Apex Court in Goutam Jain vs. Union of India, AIR 2017 SC 230. In the present

case, the petitioner-detenu seems to be a hard core criminal having links with militants and has become a terror figure among the people of the area

as against him one FIR came to be registered in police station Banihal under various sections of the IPC and Arms Act and since 2017 the

petitioner-detenu exists in the list of Over Ground Worker (OGW). Since the actions taken against the petitioner-detenu under the ordinary law from

time to time have not been proved to be deterrent, as such, the respondents had no other option but to keep him in preventive detention.

13. Personal liberty is one of the most cherished freedoms, perhaps more important than the other freedoms guaranteed under the Constitution. It was

for this reason that the Founding Fathers enacted the safeguards in Article 22 in the Constitution so as to limit the power of the State to detain a

person without trial, which may otherwise pass the test of Article 21, by humanizing the harsh authority over individual liberty. In a democracy

governed by the rule of law, the drastic power to detain a person without trial for security of the State or maintenance of public order must be strictly

construed. However, where individual liberty comes into conflict with an interest of the security of the State or public order, then the liberty of the

individual must give way to the larger interest of the nation. These observations have been made by the Supreme Court in The Secretary to

Government, Public (Law and Order-F) and another vs. Nabila and another (2015) 12 SCC 127.

14. In the present case, the petitioner has been involved in FIR No. 155/2017 u/s 302/307/120-B/121-A/382/RPC, 7/27 I.A. Act registered at Police

Station Banihal. The petitioner actively and covertly takes part in anti national/anti social activities and tried to spoil the peaceful atmosphere of

Banihal area. Petitioner-detenu exists in the list of Over Ground Worker (OGW) and if he remains free in the society, he would definitely indulge in

criminal activities and would be danger to the public peace and tranquility, therefore, the presence of subject in society is certainly prejudicial to the

maintenance of public order, peace and tranquility and safety of citizens of the area. From the bare perusal of the FIR and the allegations therein

against the petitioner, it is discernable, that the petitioner is a hardcore criminal, has become a terror figure among the people of the area, the actions

taken against him under ordinary law from time to time have not been proved to be deterrent. It seems that petitioner-detenu instead of mending his

ways has continuously been indulging in criminal activities and has not shown any respect for the law of the land, as such, the petitioner/detenué has

created a sense of alarm, scare and a feeling of insecurity in the minds of the public of the area, has become a chronic fear amongst the people of the

area. Thus, the activities of the petitioner are of hardcore criminal and habitual nature of indulging in acts of murder, Arms Act and other criminal

nature, hence, petitioner has been rightly detained by Respondent No. 2, therefore, the detention order issued vide order No. DMR/45-50 dated

27.04.2022, does not suffer from any illegality, propriety and perversity, the same is affirmed/upheld.

15. For the foregoing discussion, the petition sans any merit, is accordingly, dismissed along with connected application(s), if any.

16. Registry to return the detention record against proper receipt.