



Crl.R.C.No.1203 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.07.2025

PRONOUNCED ON : 07.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.1203 of 2025

C.Raja

..... Petitioner

Vs

The State Represented by
The Sub Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai.

..... Respondent

PRAYER: Criminal Revision Case is filed under Sections 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pending in Crl.M.P.No.4335 of 2025 pending on the file of the Special Judge for EC & NDPS Act Cases, Chennai and to examine the same and to set aside the order dated passed in Crl.M.P.No.4335 of 2025 dated 09.07.2025.

For Petitioner : Mr.G.Prabhakaran

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been preferred as against the order passed in Crl.M.P.No.4335 of 2025 on the file of the Special Judge for



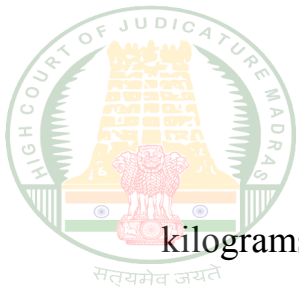
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EC and NDPS Act Cases, Chennai, thereby dismissing the petition filed under

Section 187(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking default bail.

2. The petitioner has been arrayed as A4 in Crime No.613 of 2024, registered for the offences punishable under Sections 8(c) r/w 22(c) and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act”), alleging that the respondent received a secret information on 31.12.2024 that Ketamine, a narcotic drug, was about to be trafficked near Poorvika Showroom, Arumbakkam. Upon receipt of the said information, the respondent and his team intercepted the two two-wheelers and found three plastic bags containing Ketamine, weighing about five kilograms. Subsequently, an FIR was registered. Two accused persons were arrested and remanded to judicial custody. Based on their confessions, several accused persons were implicated as accused including the petitioner. Insofar as the petitioner is concerned, he was arrested on 02.01.2025 and was remanded to judicial custody on 03.01.2025.

3. There are totally 26 accused and all the accused persons were found in possession of 6.339 kilograms of Methamphetamine and 38.410



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kilograms of Ketamine. Insofar as the petitioner is concerned, 1.6 kilograms of

WEB KETAMINE was recovered from him by the respondent. However, the respondent failed to file the final report and as such, the petitioner filed a petition under Section 187(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking default bail on his 179th day of his custody. The said petition was numbered as Crl.M.P.No.3745 of 2025 on 01.07.2025. The Trial Court issued notice to the respondent and adjourned the matter to 02.07.2025. On 02.07.2025, the respondent did not file any reply and as such, once again, the matter was adjourned to 03.07.2025.

4. In the meantime, the Trial Court considered the default bail application and granted bail to the third accused. The respondent filed the final report through e-mail on 20.07.2025, however, the report was incomplete, since the respondent failed to file the final report with all necessary documents. Therefore, the Trial Court directed the respondent to rectify the defects and file a complete final report. However, till 03.07.2025, the respondent failed to file a complete final report along with the required documents. In the meantime, the Trial Court considered the bail application filed by A6 and granted him default bail. However, the petitioner's application alone was adjourned to 04.07.2025 from 03.07.2025, since the petitioner's custody had crossed 180

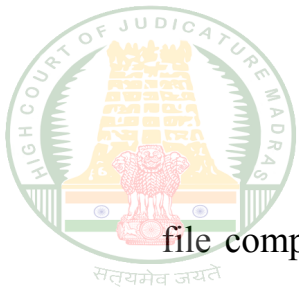


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days and as such, once again, the petitioner submitted fresh application for default bail on 04.07.2025. In view of the same, the earlier application in Crl.M.P.No.3745 of 2025 was withdrawn and subsequent bail application was filed in Crl.M.P.No.4335 of 2025, which was adjourned to 09.07.2025. On 09.07.2025, the Trial Court dismissed the said bail application on the ground that the respondent had already filed the final report and the same has been taken cognizance in C.C.No.570 of 2025 and the petitioner filed the default bail on the 180th day of his custody.

5. The learned counsel appearing for the petitioner submitted that the Trial Court, without considering that the co-accused had already been granted default bail, dismissed the bail application filed by the petitioner for default bail on the ground that the petitioner did not file any application for default bail on the expiry of 180 days from the date of custody. The right enshrined under Article 21 of the Constitution of India cannot be denied on hyper-technical reasons. The petitioner had filed an application for default bail on 179th day of his custody and on the 181st day, the bail application was still pending consideration before the Trial Court. Though the respondent had filed a final report, it was admittedly incomplete, even according to the Trial Court. Therefore, as on 181st day of the petitioner's custody, the respondent did not

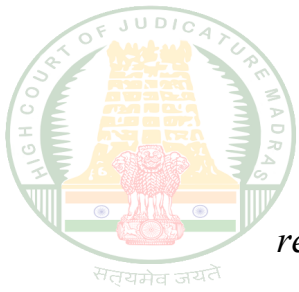


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file complete final report and hence, the petitioner was entitled to be released on default bail. The Trial Court posted the bail application on 01.07.2025, 02.07.2025 and 03.07.2025, for consideration and even then, the respondent did not rectify the queries raised by the Trial Court and the final report filed by the respondent was incomplete.

6. In fact, on 03.07.2025, the co-accused was granted default bail in Crl.M.P.No. 3744 of 2025, when the petitioner's application for default bail in Crl.M.P.No.3745 of 2025 was very much pending before the Trial Court. In support of his contention, he relied upon the Judgment of the Hon'ble Supreme Court of India reported in **(2017) 15 Supreme Court Cases 67** in the case of **Rakesh Kumar Paul Vs. State of Assam**, wherein, the Hon'ble Supreme Court of India categorically held as follows :

39. This Court also noted that apart from the possibility of the prosecution frustrating the indefeasible right, there are occasions when even the court frustrates the indefeasible right. Reference was made to Mohd.Iqbal Madar Sheikh V.State of Maharashtra, wherein it was observed that some courts keep the application for “default bail” pending for some days so that in the meantime a charge-sheet is submitted. While such a practice both on the part of the prosecution as well as some courts must be very strongly and vehemently discouraged, we



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reiterate that no subterfuge should be resorted to, to defeat the indefeasible right of the accused for “default bail” during the interregnum when the statutory period for filing the charge-sheet or challan expires and the submission of the charge-sheet or challan in court.

Procedure for obtaining default bail

40. In the present case, it was also argued by the learned counsel for the State that the petitioner did not apply for “default bil” on or after 04.01.2017 till 24.01.2017 on which date his indefeasible right got extinguished on the filing of the charge-sheet. Strictly speaking, this is correct since the petitioner applied for regular bail on 11.01.2017 in the Gauhati High Court – he made no specific application for grant of “default bail”. However, the application for regular bail filed by the accused on 11.01.2017 did advert to the statutory period for filing a charge-sheet having expired and that perhaps no charge-sheet had in fact being filed. In any event, this issue was argued by the learned counsel for the petitioner in the High Court and it was considered but not accepted by the High Court. The High Court did not reject the submission on the ground of maintainability but on merits. Therefore, it is not as if the petitioner did not make any application for default bial – such an application was definitely made (if not in writing) then at least orally before the High Court. In our opinion, in matters of personal liberty, we cannot and should not be too technical

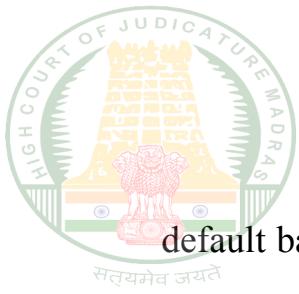


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and must lean in favour of personal liberty. Consequently, whether the accused makes a written application for “default bail” or an oral application for “default bail” is of no consequence. The court concerned must deal with such an application by considering the statutory requirements, namely, whether the statutory period for filing a charge-sheet or challan has expired, whether the charge-sheet or challan has been filed and whether the accused is prepared to and does furnish bail.”

7. Thus, it is clear that keeping the default bail petition pending for seven days enabled the prosecution to file the final report in the meantime. Such a practice must be strongly and vehemently discouraged and no subterfuge should be restored to, in order to defeat the indefeasible right of the accused to be released on default bail.

8. He also relied upon the Judgment of the Hon'ble High Court of Calcutta in **CRM (NDPS) 1509 of 2024** in the case of **Rajiv Mondal @ Rajib Vs. The State of West Bengal**, wherein it was held that the accused had filed a petition for regular bail on 179th day of his custody. On that day, the right to obtain default bail had not accrued to the accused. While pending that petition, on the 181st day of his remand, the right to obtain default bail accrued in favour of the accused. Therefore, the said bail petition can be treated as one for



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default bail and the accused was entitled to be released from judicial custody as

WEB a matter of right.

9. Per contra, the respondent filed a counter affidavit and the learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner has been arrayed as A4 in this case. A total of 1.388 kilograms of Methamphetamine and 4.951 kilograms of suspected contraband, along with a pistol, were recovered from the petitioner, which falls under the commercial quantity. The petitioner was arrested on 02.01.2025 and was remanded to judicial custody on 03.01.2025. After completion of the investigation, a final report was filed by e-filing on 27.06.2025, i.e., on the 176th day of the petitioner's judicial custody. However, the same was not taken cognizance by the Trial Court due to certain defects and queries were raised . The defects were later rectified and the Trial Court took cognizance of the final report on 02.07.2025 in C.C.No.570 of 2025. The petitioner subsequently filed a statutory bail application on 07.07.2025, i.e. on the 186th day of his custody, in Crl.M.P.No.4335 of 2025. Therefore, the Trial Court rightly dismissed the said bail application on 09.07.2025. He further submitted that the prosecution had filed charge sheet on 27.06.2025 itself and the same was not returned by the Trial Court, but kept pending for rectification of some defects. Therefore, it

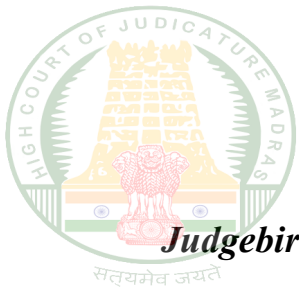


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cannot be said that the right to default bail had accrued to the petitioner on the 181st day of his custody.

10. In the case on hand, the respondent filed the final report and the same was kept pending before the Trial Court for rectification of some defects. Therefore, the petitioner is not entitled to default bail. In support of his contention, he relied upon the Judgment of this Court reported in **2024 SCC Online Mad 162** in the case of *Varun and others Vs. State, rep by the Inspector of Police*, wherein this Court held that the date of e-filing of final report can be treated as the date of filing, provided it is not a case of incomplete filing. It was further held that if the final report has not been returned by the Court and only kept pending for rectification of defects, the date of e-filing shall be considered as the date of filing. In the present case, the respondent filed charge sheet through e-filing on 27.06.2025 and the same was not returned by the Trial Court, but only kept pending for correction of some defects. Therefore, the final report is deemed to have been filed within the statutory period, and as such, the petitioner is not entitled to the relief of default bail.

11. He further relied upon the Judgment of the Hon'ble Supreme Court of India *reported in (2023) 17 Supreme Court Cases 48* in the case of



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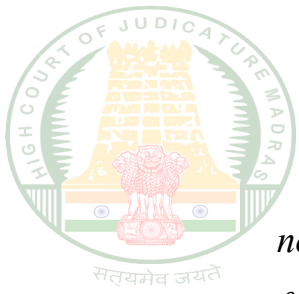
Judgebir Singh Alias Jasbir Singh Samra Alias Jasbir and others Vs.

National Investigation Agency, wherein, the Hon'ble Supreme Court of India

held as follows :

46. *Once a final report has been filed with all the documents on which the prosecution proposes to rely, the investigation shall be deemed to have been completed. After completing investigation and submitting a final report to the court, the investigating officer can send a copy of the final report along with the evidence collected and other materials to the sanctioning authority to enable the sanctioning authority to apply his mind to accord sanction. According sanction is the duty of the sanctioning authority who is not connected with the investigation at all. In case the sanctioning authority takes some time to accord sanction, that does not vitiate the final report filed by the investigating agency before the Court. Section 173 Cr.P.C does not speak about the sanction order at all. Section 167 Cr.P.C also speaks only about investigation and not about cognizance by the Magistrate. Therefore, once a final report has been filed, that is the proof of completion of investigation and if final report is filed within the period of 180 days or 90 days or 60 days from the initial date of remand of accused concerned, he cannot claim that a right has accrued to him to be released on bail for want of filing of sanction order.*

81. *The right to be released on default bail continues to remain enforceable if the accused has applied for such bail,*



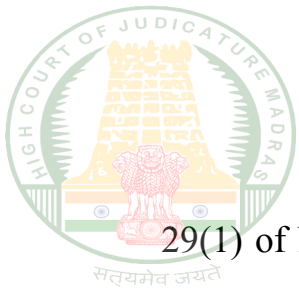
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notwithstanding pendency of the bail application or subsequent filing of the charge sheet or a report seeking extension of time by the prosecution before the Court. However, where the accused fails to apply for default bail when the right accrues to him, and subsequent a charge sheet, or a report seeking extension of time is preferred before the Magistrate or any other competent court, the right to default bail would be extinguished. The court would be at liberty to take cognizance of the case or grant further time for completion of the investigation, as the case may be, through the accused may still be released on bail under other provisions of Cr.P.C.

12. Accordingly, where the accused fails to apply for default bail when the right accrues to him and subsequently a charge sheet laid, the right to default bail would be extinguished. Therefore, the Trial Court rightly dismissed the petition and prayed for dismissal of the petition.

13. Heard the learned counsel appearing on either side and perused the materials available on record.

14. Admittedly, the petitioner was arrested and remanded to judicial custody on 03.01.2025. Pursuant to the registration of the FIR in Crime No.613 of 2024 for the offences under Sections 8(c) read with 22(c) and



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29(1) of NDPS Act. The petitioner filed an application for bail on the ground

of default under Section 187(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 on the 179th day of his custody and the same was taken on file as Crl.M.P.No.3745 of 2025 on 01.07.2025. On the same day, the Trial Court ordered notice to the respondent and adjourned the matter to 02.07.2025. On 02.07.2025, the respondent did not file any reply and as such, once again the matter was adjourned to 03.07.2025. The period of 180 days from the date of the petitioner's judicial custody concluded on 01.07.2025 and therefore, the right to claim default bail accrued to the petitioner from 02.07.2025. Admittedly, the application for default bail in Crl.M.P.No.3745 of 2025 was pending before the Trial Court during this period.

15. The respondent filed final report through e-filing on 27.06.2025, i.e. On the 176th day of the petitioner's judicial custody. According to the respondent, the said report was kept pending to comply with certain queries raised by the Trial Court. The queries raised by the Trial Court were rectified and the same was taken cognizance by the Trial Court in C.C.No.570 of 2025 on 02.07.2025, i.e. On the 181st day of the petitioner's judicial custody. In the meantime, the third accused filed a petition for default bail in Crl.M.P.No.3744 of 2025 and was enlarged on default bail by an order dated



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03.07.2025. The Trial Court, while granting bail, recorded that the third

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accused filed a petition for default bail on the 181st day of his custody. Though the respondent filed a final report through e-filing on 27.06.2025, i.e. the 178th day of the third accused's judicial custody, the charge sheet was found to be incomplete. Even on the date of which the third accused accrued right for default bail, the respondent did not complete the charge sheet. Therefore, the Trial Court considered A3's bail application for default bail and granted bail. Further, A6 also filed an application for default bail and on the very same ground, he was also granted default bail in Crl.M.P.No.3743 of 2025 by order dated 07.07.2025. Insofar as the petitioner is concerned, the Trial Court dismissed the bail petition on the ground that the petitioner filed a fresh bail application in Crl.M.P.No.4335 of 2025 on 07.07.2025, i.e. on the 186th day of the his judicial custody. In the meantime, the respondent had filed the completed charge sheet along with all documents on 02.07.2025 and the same was taken cognizance in C.C.No.570 of 2025.

16. A perusal of the records reveals that the petitioner had already filed an application for default bail and the same was taken on file on 01.07.2025 in Crl.M.P.No.3745 of 2025. Therefore, though the respondent filed final report through e-filing on 27.06.2025, in was an incomplete one.



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The petitioner's right to default bail accrued on the 181st day of his judicial custody, i.e. on 02.07.2025. Hence, since the application for default bail was already pending before the Trial Court at the time of right accrued, the petitioner is entitled to be released on default bail.

17. The Judgment of the Hon'ble Supreme Court of India reported in ***CDJ 2023 SC 391*** in the case of ***Ritu Chhabaria Vs. Union of India & Others***, wherein, it was held that if a charge sheet was not filed without completing the investigation and the same is used for prolonging remand, it would in effect negate the purpose of introducing Section 167(2) of the Cr.P.C and ensure that the fundamental rights guaranteed to accused persons are violated. This Judgment is squarely applicable to the case on hand. Further, though in the counter that the charge sheet was filed through e-filing on 27.06.2025, it was kept pending for taking cognizance by raising some queries. Therefore, it was defected one and after rectification of defects, it was taken cognizance on 02.07.2025. The order passed by the Trial Court, while granting default bail to A3 and A6, categorically recorded that the final report filed through e-filing on 27.06.2025 was incomplete. Therefore, A3 and A6 were granted default bail. In the order of dismissal of the petitioner's default bail application, the Trial Court recorded that the respondent filed



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completed charge sheet on 02.07.2025 and the same was taken cognizance in
WEB C.C.No. 570 of 2025.

18. Thus, it is clear that the respondent did not file a completed charge sheet with all necessary annexures on 27.06.2025. The completed charge sheet was filed only on 02.07.2025. On that date, the petitioner's earlier application for default bail was very much pending before the Trial Court. However, for reasons best known to the Trial Court, the petitioner was insisted to withdraw the said petition on 08.07.2025. In the meantime, the petitioner filed another petition in Crl.M.P.No.4335 of 2025 and the same was dismissed on the ground that on the 180th day of his judicial custody, the Trial Court had taken cognizance on the final report filed by the respondent in C.C.No.570 of 2025 and that the petitioner failed to apply for default bail when the right accrued to him.

19. The Judgments cited by the learned counsel for the petitioner reported in **2024 SCC Online Mad 162** in the case of **Varun and others Vs. State, rep by the Inspector of Police and (2023) 17 Supreme Court Cases 48** in the case of **Judgebir Singh Alias Jasbir Singh Samra Alias Jasbir and others Vs. National Investigation Agency**, are squarely applicable to the case



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on hand. In the present case also when the right accrued to the petitioner for

default bail, his bail application in Crl.M.P.No.3475 of 2025 was very much pending before the Trial Court. Therefore, the indefeasible right of the petitioner for default bail cannot be deny on hyper-technical ground that he filed application for default bail even before the date of which his right accrued for default bail. Though the petitioner filed a petition for default bail on his 179th day of his judicial custody, the matter was taken on file on 01.07.2025, i.e. the 180th day and was adjourned to 02.07.2025 i.e., the 181st day of his judicial custody. On that date, the application for default bail was very much pending and the respondent had filed only incomplete charge sheet. Therefore, the petitioner is entitled to be released on default bail under Section 187(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

20. Considering the above facts and circumstances and taking into account the period of incarceration undergone by the petitioner from the date of his arrest i.e., 02.01.2025, this Court is inclined to grant bail to the petitioner. Accordingly, the order dated 09.07.2025 made in Crl.M.P.No.4335 of 2025 on the file of the Principal Special Judge, Special Court for EC and NDPS Act Cases, Chennai, is hereby set aside.



21. Accordingly, this **Criminal Revision Case stands allowed**

and the petitioner is ordered to be released on bail on his execution of a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Principal Special Judge, Special Court for EC and NDPS Act Cases, Chennai and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the Trial Court daily at 10.30 a.m., for the period of thirty days and thereafter, on all hearing dates.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have



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been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

07.08.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

1. The Principal Special Judge,
Special Court for EC and NDPS Act Cases, Chennai.

2. The Superintendent,
Central Prison, Puzhal,
Chennai.

3. The Sub Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai.

4. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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Pre-delivery order in
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