Sr. No.1

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

Bail App 180/2026

SYED AHMAD PARIMOO …Petitioner(s)/appellant(s)

Through: Mr. Veerendra Mohan, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS (HOME / POLICE) ...Respondent(s)

Through: Mr. Mohsin S. Qadri, Sr. AAG with
M/s. Maha Majeed, & Haaris Khan, Assisting Counsels

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**
**HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE**

**O R D E R**
**22.10.2026**

1. The counsel for the petitioner has preferred this petition with the following prayers:-

(a) Enlarge the Applicant/Petitioner on bail by way of default bail, in exercise of powers Under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 read with Article 21 of Constitution of India considering that the statutory maximum period of one hundred and eighty (180) days of custody of the Applicant/Petitioner under Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 43D (b) of the Unlawful Activities (Prevention) Act, 1967, expired on 28.09.2026;

(b) Declare the continued incarceration of the Applicant/Petitioner beyond the statutory period as illegal and unconstitutional, being violative of Article 21 of the Constitution of India;

(c) Direct the release of the Applicant/Petitioner forthwith, subject to such terms and conditions, including furnishing of adequate sureties, as this Hon'ble Court may deem fit and proper in the interests of justice; and

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(d) Pass such other and further orders as this Hon'ble Court may be pleased to deem fit and proper in the facts and circumstances of the case, in the interests of justice.

2. The counsel's basic submissions were that the statutory period of 180 days of custody, that was the maximum period without charge-sheet, has been breached, and thus he is entitled to default bail. The counsel for the respondents, at the threshold, has referred to list of dates which reads as follows:-

| Date | Event | Significance |
|---|---|---|
| 17.04.2026 | FIR No. 24/2026 registered on the naka-party docket; Petitioner and three others apprehended with live hand grenades (Annexure I). | The case comes into existence. |
| 18.04.2026 | Petitioner produced at about 3.30 p.m. before the Special Court and remanded to judicial custody. | First remand: the 90/180-day period begins. |
| 06.07.2026 and 13.07.2026 | Report of the Additional Public Prosecutor under Section 43D(2)(b); Petitioner files objections. | Report filed before the 90th day. |
| 15.07.2026 | Special Court extends custody by 45 days, against 90 days sought. | Passed before the 90th day (16/17.07.2026). |
| 19.08.2026 and 21.08.2026 | Second Report; Petitioner's objections, including the prayer for default bail. | Plea raised before the Special Court. |
| 24.08.2026 | Special Court extends custody to the statutory maximum of 180 days (Annexure VII). | Passed before the first extended period expired (about 31.08.2026). |
| 06.10.2026 | The present application is filed in this Hon'ble Court. | Filed before the 180th day; no default had arisen. |
| 12.10.2026 | Charge-sheet presented before the Special Court | Within the statutory maximum. |
| 15.10.2026 | 180th day from the first remand. | Charge-sheet preceded it. |

3. Mr. Qadri, learned Senior AAG, along with Ms. Maha Majeed, learned Assisting Counsel, submits that for the purpose of counting the default bail, the mandatory period of 180 days has to be counted from 18.04.2026, when the first remand was taken. He submits that within 180 days, i.e., 12.10.2026, the charge-sheet was presented before the

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learned Special Court, and the 180 days from the first remand expire on 15.10.2026.

**4.** The learned counsel for the respondents has relied upon the judgments rendered by the Division Bench of this Hon'ble Court in **Syed Irfan Abdullah v. UT of J&K,** ***CrlA(D) No.17/2023***, and **Riyaz Ahmad Hajam v. UT of J&K,** ***CrlA(D) No. 40/2022***, in which the Division Bench in ***Syed Irfan Abdullah*** **(supra)** has in paragraphs 14 and 15 held as under:

> *"....**14**. Although there is no specific requirement under Section 43-D of the UA(P) Act to provide an opportunity of being heard to the arrested person, yet such requirement is held to be inbuilt and inherent in the exercise of power by the Court under Section 167 Cr.P.C. read with Section 43-D of the UA(P) Act. This is so because consideration of the request of the prosecution/Investigating Agency for extension of custody of the accused beyond the period of 90 days for completion of the investigation affects a vital right of the accused to be released on bail on account of the failure of the Investigating Agency to complete the investigation within the maximum period of 90 days. Deprivation of such right by extending the period of investigation and custody of the accused cannot be effected unless such person in custody is given an opportunity to oppose such request on the part of the Investigating Officer. The legal position in this regard is well enunciated in the judgments relied upon by learned counsel for the appellant. Mr. Mohsin Qadri, learned Senior AAG, appearing for the respondents, does not dispute this settled position of law."*
>
> ***15**. In the instant case, we find that the appellant had moved an application for default bail on 11.04.2023, which was the 90th day of the authorised custody of the appellant. That being so, the application moved by the appellant for default bail was premature and not maintainable in law. It is also not in dispute that on 11.04.2023 itself, the application moved by the Investigating Officer through the APP, seeking extension of remand of the appellant beyond the period of 90 days, was allowed and the judicial custody of the appellant was extended. In that view of the matter, the NIA Court rightly held that the bail application moved by the appellant had been rendered infructuous. We cannot lose sight of the fact that the prosecution had thereafter presented the charge-sheet after completing the investigation within the period authorised by the NIA Court....."*

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*Similarly, in* ***Riyaz Ahmad Hajam v. UT of J&K*****,** CrlA(D) No. 40/2022, the Hon'ble Division Bench, in paragraphs 28 & 29, held as under:-

> ***"…..28.*** *The reliance placed by the appellants upon* ***Fakhry Alam*** *(supra) is misplaced, as the factual matrix therein was materially distinguishable. In the present case, the prosecution had already filed the principal charge-sheet within the extended statutory period, whereas in* ***Fakhry Alam*** *(supra) no charge-sheet qua UAPA offences had been filed within the permissible period of 180 days. On the contrary, the principle laid down by the Supreme Court in Serious Fraud Investigation Officer v. Rahul Modi (Supra) squarely applies to the facts of the present case, namely that once a valid charge-sheet is filed within the prescribed or legally extended period, the right to default bail stands extinguished irrespective of whether cognizance has been taken thereafter, whereas reliance on* ***Chitra RamaKrishnan's*** *case is uncalled for.*
>
> ***29.*** *This Court is further of the opinion that the provisions of the NDPS Act and the UAPA law, though both special enactments, operate in distinct legislative fields and are required to be harmoniously construed. The mere existence of Section 48 of the UAPA does not ipso facto render Section 36A of the NDPS Act inapplicable in a case involving allegations of narco-terror financing where offences under both enactments are attracted. The learned trial Court, being vested with jurisdiction as a Sessions Court and also designated as a Special Court for UAPA matters, was fully competent to extend the period of investigation in terms of Section 36A of the NDPS Act…..***"**

5. In both these cases, the Division Bench of this Hon'ble Court rejected the applications for default bail because the UT/Prosecution had already filed the charge-sheet before the competent designated UAPA Special Judges.

6. In the case titled ***ENFORCEMENT DIRECTORATE, GOVERNMENT OF INDIA versus KAPIL WADHAWAN & ANR, 2023 LiveLaw (SC) 249***, wherein the Hon'ble Supreme Court at paragraph 50 of the judgment has held as under:-

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*"Since there exists vacuum in the application and details of Section 167 CrPC, we have opted for an interpretation which advances the cause of personal liberty. The accused herein were remanded on 14.05.2020 and as such, the charge-sheet ought to have been filed on or before 12.07.2020 (i.e. the sixtieth day). But the same was filed, only on 13.07.2020 which was the 61st day of their custody. Therefore, the right to default bail accrued to the accused persons on 13.07.2020 at 12:00 AM, midnight, onwards. On that very day, the accused filed their default bail applications at 8:53 AM. The ED filed the charge-sheet, later in the day, at 11:15 AM. Thus, the default bail Applications were filed well before the charge-sheet. In Ravindran(supra) and Bikramjit (supra), which followed the Constitution Bench in Sanjay Dutt(supra) it was rightly held that if the accused persons avail their indefeasible right to default bail before the charge-sheet/final report is filed, then such right would not stand frustrated or extinguished by any such subsequent filing. We therefore declare that the stipulated 60/90 day remand period under Section 167 CrPC ought to be computed from the date when a Magistrate authorizes remand. If the first day of remand is excluded, the remand period, as we notice will extend beyond the permitted 60/90 days' period, resulting in unauthorized detention beyond the period envisaged under Section 167 CrPC. In cases where the charge-sheet/final report is filed on or after the 61st/91st day, the accused in our considered opinion would be entitled to default bail. In other words, the very moment the stipulated 60/90 day remand period expires, an indefeasible right to default bail accrues to the accused."*

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7. Counsel for the petitioner has vehemently submitted that, before the FIR was lodged and before the arrest was made, the petitioner was already in custody for 17 days since 31.03.2026. However, he could not demonstrate any document or any agitation before any court of law from 31.03.2026 onwards which could suggest from the record that there was an illegal custody, which he harped upon. When the counsel was posed with a question as to whether he had brought to the notice of the court below that he had been kept in illegal custody even when he was put up for first remand on 18.04.2026, he fairly submits that no such record is available and that he did not point it out to the court at that juncture, but it was only when the default bail accrued after 90 days that he brought it to the notice of this Court.

8. This Court, after hearing counsel for the parties and upon perusal of the list of dates, and also in view of the failure on the part of the petitioner to demonstrate from the record when he started agitating his illegal custody from 31.03.2026 to 17.04.2026, finds that there is not even an iota of evidence or any kind of record before the Court, or any application preferred before the Court, which would suggest that such an issue was brought before the Court. This clearly does not impress upon this Court that there might have been another reason which was not brought to the Court from 31.03.2026 to 17.04.2026.

9. In view of the law laid down in *Enforcement Directorate* (supra), even if the period spent in remand is included in computing the period of 180 days under the proviso to Section 43-D(2)(b) of the UA(P) Act read with Section 167(2) Cr.P.C./187(3) of Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant is not entitled to statutory/default bail. The prosecution filed the charge-sheet/challan before the learned Special

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Court on 12.10.2026, which is prior to 14.10.2026, the date on which the 180th day was completed. Since the charge-sheet was filed within the prescribed period, the indefeasible right of the applicant to default bail stood extinguished.

10. Since the FIR itself was registered on 17.04.2026, bearing FIR No.24/2026, on the naka-party docket, where the petitioner, along with three others, was apprehended with live hand grenades, the process of law started and resulted in a charge-sheet dated 12.10.2026, which is well within the 180 days. The 180 days from the first remand were completed only on 15.10.2026.

11. In this limited perspective, the case for default bail is not made out, and thus the default bail application is dismissed.

**(MOHD YOUSUF WANI)**
**JUDGE**

**(DR. PUSHPENDRA SINGH BHATI)**
**CHIEF JUSTICE**

**SRINAGAR**
**22.10.2026**
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