

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-375-2026

JUDGEMENT RESERVED ON	JUDGEMENT PRONOUNCED ON	OPERATIVE PART PRONOUNCED OR FULL	UPLOADED ON
30.03.2026	06.05.2026	FULL PRONOUNCED	06.05.2026

Gurdit Singh

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Vipin Mahajan, Sr. Advocate with
Mr. Abhijeet Chaudhary, Advocate for the appellant.

Ms. Pooja Nayar Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
289	26.11.2025	City Gurdaspur, Punjab	109, 324(4), 111, 324(2) BNS and Sections 3/4/5 of Explosive Substance Act 1908, Sections 13, 16, 17, 18-B, 20, 35, 40, 43-E of UAPA Act and 25 of Arms Act

Bail Application number before the Sessions Court	CIS No.BA/1199/2026 CNR No.PBGD01-002833-2026
Date of Decision	06.03.2026

1. Challenging the order dated 06/07.03.2026 passed by the learned Additional Sessions Judge, Gurdaspur whereby the application filed by the appellant for default bail u/s 187(3) BNSS(167(2) CrPC) has been dismissed, the accused-Gurdit Singh has come up before this Court under Section 21A of the National Investigation Agency Act.
2. We have heard counsel for the parties and gone through the pleadings, including the reply and its analysis would lead to the following outcome.
3. A written application dated 21.02.2026 was filed by the Deputy Superintendent of Police, City Gurdaspur, for extension of time under Section 43(D)(2)(5) of UAP Act 1967. Based on such application, by order dated 21.02.2026, learned trial Court extended the time

by one month. After that the accused-appellant filed an application for default bail under Section 187(3) of BNSS 2023 (earlier u/s 167(2) CrPC). Vide impugned order dated 06.03.2026, the application for default bail was rejected. The reason for rejection was that the time had already been extended. On the face of it, the application for extension of time ought to have been filed by the public prosecutor and not by the DySP. There is no discussion to this aspect, as such the present appeal is accepted and the matter has to be remanded back to re-decide the application filed for default bail.

4. The impugned order is dated February 21, 2026 which deals with the application moved by the prosecution for an extension of time to submit the challan. Learned Additional Sessions Judge allowed the application, given the submissions made in the said application, and extended the time for submitting the challan by one month.

5. The appellant filed an application under section 187(3) of the BNSS (corresponding to section 167(2) CrPC) because of non-filing of challan within the stipulated 90 days period. By order dated March 06, 2026, the Special Judge dismissed the said application on the ground that the time for filing a challan had already been extended; accordingly, as such the application was not suffice.

6. The bone of contention between the parties is the manner in which the application was filed, and it is claimed that the application is a violation of Section 43(D)(2)(5) of the UAP Act 1967. The copy of the application is attached at page #28 of the present appeal.

7. A perusal of the application points that it was forwarded by the concerned DySP Gurdaspur and it bears the date of February 21, 2026.

8. It will be appropriate to refer to section 43(D)(2)(5) of UAPA Act, which reads as follows:-

“43D. Modified application of certain provisions of the Code.—(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and “cognizable case” as defined in that clause shall be construed accordingly.

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that in sub-section (2),—

(a) the references to “fifteen days”, “ninety days” and “sixty days”, wherever they occur, shall be construed as references to “thirty days”, “ninety days” and “ninety days” respectively; and (b) after the proviso, the following provisos shall be inserted, namely:—

“Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Court may if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the said period up to one hundred and eighty days:

Provided also that if the police officer making the investigation under this Act, requests, for the purposes of investigation, for police custody from judicial custody of any person in judicial custody, he shall file an affidavit stating the reasons for doing so and shall also explain the delay, if any, for requesting such police custody.

x x x x

(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.

9. Thus, the legislative intention is that the application shall be filed by the public prosecutor, and it is the satisfaction of the public prosecutor, not of the investigator. Perusal of the reply does not address the situation. In paragraph number 16, what is mentioned is only that an application was filed for an extension of time.

10. In ***State of Maharashtra Versus Surendra Pundlik Gadling and others, 2019 (5) RCR (Criminal) 557***, a three-Judge Bench of the Hon’ble Supreme Court holds,

[27]. Learned senior counsel sought to emphasise that the appellant cannot get away from the requirements stipulated in the judgement of Hitendra Vishnu Thakur, for a document to be treated as a report of the Public Prosecutor and the mandatory requirements stipulated in this context, in Section 20(4)(bb) of TADA. In this behalf he referred to para 23 of the aforementioned judgement.

[28]. A perusal of the aforesaid paragraph shows that the emphasis laid by this Court was on the legislature, in its wisdom, not leaving it to the IO to make an application for seeking an extension of time from the Court and, thus, requiring the investigating agency to submit itself to the scrutiny of the Public Prosecutor, in the first instance, and satisfying him

about the progress of the investigation and furnishing reasons for seeking further custody of an accused. Otherwise, an accused could be kept in continued detention, during unnecessarily prolonged investigation, at the whims of the police. This Court also emphasised that the Public Prosecutor is not a part of the investigating agency, but is an independent statutory authority and, thus, is expected to independently apply his mind to the request of the investigating agency, before submitting a report to the Court for extension of time with a view to enable the investigating agency to complete its investigation. Thus, "He is not merely a post office or a forwarding agency. A Public Prosecutor may or may not agree with the reasons given by the investigating officer for seeking extension of time and may find that the investigation had not progressed in the proper manner or that there has been unnecessary, deliberate or avoidable delay in completing the investigation. In that event, he may not submit any report to the Court under clause (bb) to seek extension of time."

[29]. The observations in para 23 also then go on to state that the Public Prosecutor may attach the request of the IO along with his request or application or report, but his report must disclose, on the face of it, that he has applied his mind and has been satisfied with the progress of the investigation and considered a grant of further time, to complete the investigation, as necessary. This report is not merely a formality, but is a very vital report as it affects the liberty of an accused. The request of an IO for extension of time is no substitute for the report of the Public Prosecutor. We may notice that it has been very clearly set out that it is not merely a question of the form in which the request for extension is to be made, but one of substance, as it is to assist the designated court to independently decide whether or not to grant such extension. It cannot be a mere presentation and forwarding of the request of the IO to the Court. The mere labelling of the document as a report or an application was stated to be not of much consequence, but what was held to be of consequence was that there could not be a mere reproduction of the application or request of the IO by the Public Prosecutor in his report, without demonstration of the application of his mind and a recording of his own satisfaction.

11. Any observation made hereinabove is tentative and is not an expression of opinion on the case's merits, and it shall have no bearing on the trial or on the case of the co-accused, and the trial Court shall not advert to these comments.

12. Thus, on the face of it, the application was wrongly filed and since the concerned Sessions Judge did not decide the application as per the provisions of Section 43D of UAP Act, the impugned order is set aside and **appeal is allowed** in terms mentioned above, and the matter is remanded back to the trial Court to decide the bail application in the light of the three Judge Bench judgment of Hon'ble Supreme Court in **"State of Maharashtra Versus Surendra Pundlik Gadling and others, 2019 (5) RCR (Criminal) 557"**

13. It is clarified that this order shall not be considered as an order to grant bail.
14. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

06.05.2026

Anju rani

Whether speaking/reasoned	YES
Whether reportable	NO