





right under Section 187(3) BNSS, 2023 stood extinguished, with a further prayer for release of the petitioner on default bail forthwith.

2. Learned counsel for the petitioner has contended that the petitioner was arrested on 03.08.2025 in FIR No.106 dated 19.07.2025 registered under Section 409 IPC at Police Station Qadian, District Batala, and since the challan/report under Section 173(2) Cr.P.C. was not presented within the stipulated period of 90 days, the petitioner acquired an indefeasible right to be released on default bail under Section 187(3) BNSS, 2023 (corresponding to Section 167(2) Cr.P.C.). It is submitted that the petitioner accordingly moved an application for grant of default bail on 04.11.2025 after expiry of the statutory period and the learned JMIC, Batala, while recognizing the accrued right of the petitioner, allowed the said application and granted concession of default bail vide order dated 04.11.2025. It is further contended that while granting the concession of default bail, the learned JMIC, Batala imposed a condition that in case the challan was presented before furnishing of bail bonds and surety bonds, the right of the petitioner under Section 187(3) BNSS would stand extinguished. Learned counsel submits that such a condition is wholly illegal, arbitrary and contrary to the settled proposition of law, as once the indefeasible right had accrued in favour of the petitioner and the application for default bail had been allowed, the subsequent filing of the challan could not defeat the said right. Learned counsel has further argued that pursuant to the order dated 04.11.2025, the petitioner presented the requisite bail bonds and surety bonds, however, the same were not accepted by the learned trial Court on the ground that in the meantime the challan had been presented on 05.11.2025



and, therefore, the right of the petitioner stood extinguished. It is contended that the order dated 06.11.2025 passed by the learned JMIC, Batala refusing to accept the bail bonds and declining release of the petitioner is unsustainable in law. In support of the aforesaid submissions, learned counsel for the petitioner has placed reliance upon the judgment of the Hon'ble Supreme Court in *Uday Mohanlal Acharya versus State of Maharashtra, (2001) 5 SCC 453*, to contend that the moment the statutory period expires and the accused applies for default bail, an indefeasible right accrues in his favour which cannot be defeated by subsequent filing of the challan. It is thus argued that since the petitioner had already applied for and had been granted default bail prior to presentation of the challan, his continued detention thereafter is wholly illegal and the impugned orders dated 04.11.2025 and 06.11.2025 to the extent they curtail/extinguish the right of the petitioner are liable to be quashed and the petitioner deserves to be released on default bail forthwith.

3. Learned State counsel has opposed the present petition and submitted that though the petitioner had been granted concession of default bail vide order dated 04.11.2025, the said order itself specifically directed the petitioner to furnish bail bonds/surety bonds within the stipulated time and further clarified that in case the challan was presented before furnishing of the bail bonds, the right under Section 187(3) BNSS, 2023 (corresponding to Section 167(2) Cr.P.C.) shall stand extinguished. It has been argued that admittedly the petitioner failed to furnish and get accepted the bail bonds before presentation of the challan and in the meantime, the challan/report under Section 173(2) Cr.P.C. came to be presented before the competent



Court. Thus, once the challan had been presented before actual furnishing and acceptance of bail bonds, the indefeasible right accruing in favour of the petitioner stood extinguished and thereafter the custody of the petitioner could not be said to be illegal. Learned State counsel has further argued that the petitioner has misread and wrongly interpreted the judgment of the Hon'ble Supreme Court in *Uday Mohanlal Acharya's case (supra)*. Reliance has been placed upon the observations made by the Hon'ble Supreme Court in paragraphs 20, 29 and 30 of the said judgment, wherein it has been categorically held that the expression "availed of" does not mean mere filing of an application for default bail expressing willingness to furnish bail bonds, rather the stage of actual furnishing of bail bonds must be reached. It has been submitted that the Hon'ble Supreme Court specifically held that if before furnishing of bail bonds the challan is presented, then there remains no question of enforcing the right under Section 167(2) Cr.P.C. and the said right stands extinguished. Learned State counsel has thus contended that the learned JMIC, Batala rightly declined to release the petitioner on bail vide order dated 06.11.2025 and no illegality or perversity is made out warranting interference by this Court in exercise of its inherent jurisdiction under Section 528 BNSS.

4. I have heard learned counsel for the parties and have gone through the record of the case with their able assistance. The undisputed factual position in the present case is that though the petitioner moved an application seeking concession of default bail under Section 187(3) BNSS on expiry of the statutory period and the learned JMIC, Batala vide order dated 04.11.2025 allowed the said application subject to furnishing of bail



bonds/surety bonds, however, the petitioner admittedly did not furnish and get accepted the requisite bail bonds before presentation of the challan. The challan/report under Section 173(2) Cr.P.C. came to be presented on 05.11.2025 and thereafter, vide order dated 06.11.2025, the learned trial Court held that the right of the petitioner stood extinguished. The principal question which arises for consideration is as to whether mere filing of an application for default bail or even passing of an order granting default bail would by itself amount to “availing of” the indefeasible right under Section 167(2) Cr.P.C./Section 187(3) BNSS, despite the fact that the accused had not furnished bail bonds till presentation of the challan.

5. The aforesaid issue is no longer res integra and stands authoritatively settled by the Hon’ble Supreme Court in *Uday Mohanlal Acharya’s case (supra)*. Though reliance has been placed by the petitioner upon certain observations made in the said judgment to contend that once an application for default bail is filed, the subsequent filing of challan would not defeat the right accrued in favour of the accused, however, a complete reading of the judgment clearly demonstrates that the expression “availed of” appearing in the earlier judgments would not mean mere filing of an application for bail expressing willingness to furnish bonds, but the accused must be prepared to and actually furnish bail bonds as directed by the Court. The Hon’ble Supreme Court further categorically observed that if before actual furnishing of bail bonds the challan is presented, then the right under Section 167(2) Cr.P.C. cannot thereafter be enforced and the same stands extinguished. The relevant observations of the Hon’ble Supreme Court make it abundantly clear that once the challan is filed before furnishing of bail



bonds, the custody thereafter is no longer governed by the default clause contained in Section 167(2) Cr.P.C., but by the ordinary provisions relating to remand and regular bail. Thus, the indefeasible right under Section 167(2) Cr.P.C. is not an absolute or perpetual right and the same survives only till the accused actually avails of the said right in the manner known to law.

6. In the present case, admittedly the petitioner did not furnish and get accepted the bail bonds before filing of the challan. Consequently, in view of the law laid down by the Hon’ble Supreme Court in *Uday Mohanlal Acharya’s case (supra)*, the indefeasible right claimed by the petitioner stood extinguished upon presentation of the challan on 05.11.2025. The learned JMIC, Batala thus committed no illegality while passing the order dated 06.11.2025 declining release of the petitioner on default bail.

7. This Court, therefore, does not find any illegality, perversity or jurisdictional error in the impugned orders warranting interference in exercise of powers under Section 528 BNSS, 2023.

8. Accordingly, the present petition stands dismissed.

9. However, it is made clear that nothing stated hereinabove shall be construed as an expression on the merits of the case.

10. All the pending miscellaneous application(s), if any, stands disposed of.

(MANDEEP PANNU)
JUDGE

14.05.2026

Anu	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No