

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-D-1240-2025 (O&M)

JUDGEMENT RESERVED ON	JUDGEMENT PRONOUNCED ON	OPERATIVE PART PRONOUNCED OR FULL	UPLOADED ON
23.02.2026	07.04.2026	FULL PRONOUNCED	07.04.2026

Jagroop Singh ...Appellant

Versus

State of Punjab ...Respondent

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

Present: Mr. P.S. Ahluwalia, Senior Advocate with
Ms. Simerpreet Sekhon, Advocate, for the appellant(s).

Ms. Pooja Nayar Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
20	13.04.2025	SSOC Amritsar	13, 17, 18, 18B, 20 of UAPA, Sections 3, 4, 5 of Explosive Substances Act, Section 61(2) of BNS

Bail Application number before the Sessions Court	BA-5751-2025 CNR No.PBJL01-011909-2025
Date of Decision	19.08.2025

1. Aggrieved by the dismissal of his application for default bail under Section 187(2) BNSS (corresponding Section 167(2) CrPC) and acceptance of the application filed by the investigator through the public prosecutor for extension of time whereby time to file the police report was extended, the appellant has come up before this Court for grant of bail.
2. Counsel for the appellant submits that the trial Court allowed the application for extension of time in an arbitrary manner as the same was filed by the investigator and forwarded by the Public Prosecutor, however, the same is required to be filed by the Public Prosecutor itself which is in violation of the settle principle of law and not permissible under Section 43-D of UAP Act.
3. Counsel for the appellant further submits that the appellant had filed reply to such application, however, the Special Judge allowed the same and in the same breath dismissed the application for grant of bail under Section 187(2) BNSS (corresponding Section 167(2) CrPC) on the ground that investigation is still pending.

4. Feeling aggrieved, the appellant had come up before this Court by filing the present appeal.

5. Ms. Pooja Nayar Sharma, Deputy Advocate General, Punjab, submits that even if the application filed by the investigator was not in consonance with the provisions of Section 43D of UAPA, even then it will not make the investigation conducted by such investigator pursuant to said extension as illegal.

6. Mr. P.S. Ahluwalia, senior counsel for the appellant, submits that it was illegal to have granted an extension in the application filed by the investigator because the law authorizes a public prosecutor to do so and not the investigator.

7. We have heard counsel for the parties and gone through the record, and its analysis would lead to the following outcome.

8. Needless to say, under Section 43D of UAPA, it is the public prosecutor who has to file an application, but in the present case, perusal of the application (Annexure P-3) clearly points out that it was made by the investigating officer and forwarded by the Additional Public Prosecutor. By the impugned order, the application was allowed, and the investigation was ordered to be conducted over an extended period.

9. The impugned order has two consequences: first, what would be the effect of the investigation conducted pursuant to a judicial order extending the time, and secondly, what would be its impact on a right under Section 187(2) BNSS accrued to the accused for not completing the investigation in time and not filing the charge sheet within the stipulated time.

10. As far as the violation of Section 187(2) BNSS is concerned, it is the statutory provision enacted by the legislature itself, and the similar provision in CrPC, 1973 was reproduced in Section 187 of BNSS. It means the legislative intent did not change, and the time limit for completing the investigation was adhered to.

11. Under Section 43D of UAPA, liberty was granted to the public prosecutor to seek an extension. In the present case, the public prosecutor never sought an extension; the investigator drafted the application and filed it through the concerned public prosecutor.

12. 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.

13. Thus, on the face of it, the order of extension of time was in violation of the judgment passed by a larger Bench of the Hon'ble the Supreme Court.

14. Given the judicial precedent, the order passed by the trial Court qua extension of time is set aside and the matter is remanded back to the trial Court to pass order on the application moved by the prosecution for extension of time afresh.

15. Since the consequent application filed by the appellant for grant of default bail is subject to outcome of the order passed in the application for extension of time, as such, the said order is also set aside and matter is remanded back to the trial Court for passing afresh order separately after passing the order on the application on extension of time to complete the investigation first.

16. 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.
17. Given above, present appeal stands disposed of and pending miscellaneous applications also stand disposed of.

(ANOOP CHITKARA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

07.04.2026
jyoti-II

Whether speaking/non-speaking:	Speaking
Whether reportable:	No