



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR No.3211 of 2025 (O&M)

Reserved on:09.03.2026

Decided on:17.03.2026

Malkit Singh @ Keetu

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present : Mr. Riushu Mahajan, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

An application filed by the petitioner under Section 187(3) 'Bharatiya Nagrik Suraksha Sanhita 2023', hereinafter being referred to as 'BNSS' only, has been dismissed by the learned Additional Sessions Judge on 24.11.2025. In the similar fashion the second bail application under Section 187(3) BNSS, has been dismissed by the same Court on 05.12.2025. Aggrieved of both the orders the present petition has been filed.

2 Briefly stating the facts emerging from record are that, that for the commission of offence punishable under Sections 3, 4, and 5 of Explosive Substances Act 1908, hereinafter being referred to as 'Act' only, and Section 25(8) of Arms Act 1959, the FIR has been lodged in Police Station Lopoke, District Amritsar. The above mentioned FIR was lodged at the instance of ASI 'Tarsem Singh'. It was stated by the above named police officer that on



20.08.2025 when he was leading a team of police officials, deputed for patrolling duty, a reliable source gave him a tip-off that 'Malkeet Singh, (petitioner herein) was in touch with the notorious gangsters 'Harwinder Singh @ Rinda', presently living in Pakistan. As per report, it was also informed that on the instructions of 'Harwinder Singh', he (Malkeet Singh) had collected one hand grenade, one pistol and some cartridges from a particular location, and that on the motorcycle No. PB-14-C-5341 he was going from village Pandori to village Bachiwind. According to prosecution in view of above mentioned information a barricade was set-up on the said road, and the above mentioned motorcycle was intercepted and from the possession of petitioner the above mentioned arms and ammunition were recovered.

3. It is the case of the prosecution that pursuant to above mentioned recovery, the petitioner was arrested and remanded into judicial custody. As per prosecution, in the judicial custody the petitioner moved an application under Section 187(3) of the BNSS for grant of default bail. This application was moved on the ground that he was in custody for a period of 95 days, but the challan had not been filed, and therefore, he was entitled for bail. The above mentioned application was dismissed by the learned Additional Sessions Judge on 24.11.2025 by recording following observations:

"Report of Criminal Ahlmad has been taken. As per report of Criminal Ahlmad, accused, Malkit Singh is in custody for the period of 95 days and challan has not been presented so far but at the same time, report Criminal Ahlmad of Court of



learned Duty Magistrate, Ajnala has been received and as per report that challan has been presented before that learned Duty Magistrate on 23.11.2025 i.e. Yesterday. As such, challan has already been presented in this case before Learned Duty Magistrate, before filing the present default bail application by virtue of Section 187(3) BNSS. Therefore, there is no merits in this bail, same is dismissed. Papers be attached with the remand papers. Ahlmad is also directed to call upon that challan from the concerned Duty Magistrate.”

4. Once the above mentioned application was dismissed, the petitioner moved the second application for bail under Section 187(3) of the BNSS. The above mentioned application was moved in the backdrop of the fact that the first application under Section 187(3) of the BNSS, was dismissed on the ground that the challan had already been filed by the police, but subsequent thereto the Court of Sh. Anurag Arora, learned Illaqua Magistrate, had returned the challan to the police officials, with a direction to present the same before the appropriate Court. Thus, the challan was again presented before the Court of learned Special Judge on 27.11.2025. On the ground that on 24.11.2025 the challan had been returned, and that, on that day the petitioner was eligible for the benefit of bail, the second application for bail was filed by the petitioner. However, the above mentioned application, too, was dismissed by the learned Special Judge. Hence, the present revision petition.



5. Heard.

6. It has been contended by learned counsel for the petitioner that in the present case a valuable right has accrued to the petitioner, when within the period stipulated under the statute, the challan was not filed by the Investigating Agency and the application for bail under Section 187(3) BNSS was filed by the petitioner. According to learned counsel for the petitioner an error of judgment has been committed by the learned Special Judge, while passing the impugned orders.

7. With regard to order dated 24.11.2025 the leaned counsel for the petitioner has contented that on that day once the challan was returned a situation was created that there was no challan pending in the Court, and therefore, the Court of learned Addl. Sessions Judge/Special Judge had no occasion to record an observation, that the challan was there, and therefore, the petitioner was not entitled for the benefit of default bail.

8. With regard to order dated 05.12.2025, the learned counsel for the petitioner has contended that *firstly*, the challan was not complete and *secondly*, the benefit which had already accrued to the petitioner, due to non-filing of the challan within the prescribed time frame, could not have been withdrawn.

9. In support of his arguments, the learned counsel for the petitioner has referred to the Principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Aslam Babalal Desai Vs. State of Maharashtra', AIR 1993 SC1, and by this Court in the case of 'State of Punjab Vs. Gursahib



Singh', CRM-M-33947-2022, 'Mahinder Singh @ Mohinder Singh Vs. State of Punjab', CRR-1334-2021 and 'Satish Kumar and other Vs. State of Punjab and another', CRA-D-28-2021.

10. The learned counsel for the petitioner has also contended that in the present case one of the aspect to be taken into consideration is that the Investigating Agency committed first error when it failed to produce the challan within the prescribed time frame, second was committed when it presented the challan before the wrong forum and the third are when it filed an incomplete challan, as the necessary sanction of the competent authority for the prosecution of petitioner under Section 25 of Arms Act and Sections 3, 4 and 5 of Explosive Substances Act was not obtained.

11. The learned State counsel has controverted the above mentioned arguments.

12. With regard to arguments of learned counsel for the petitioner that only Special Court can take cognizance of the police report, it has been contended by learned State counsel that National Investigation Agency (Amendment) Act 2019, hereinafter being referred to as 'NIA Act' only, provides for the constitution of the Special Court to deal with the cases filed by the NIA. As per learned State counsel, the NIA Act prescribes that if any case is investigated by the NIA, with regard to an offence under Sections, 3, 4 and 5 of the Explosive Substances Act, the same shall be tried by the Special Court, constituted under NIA Act only. As per learned State counsel the above mentioned statutory provisions does not prescribe that any case investigated by



the police, for the commission of offence under Sections 3, 4 and 5 of the Explosive Substances Act, shall be tried by Special Court only.

13. It has been further contended by learned State counsel that for the commission of an offence under Explosive Substances Act, there is no specific provision of constitution of Special Court. As per learned State counsel, any notification with regard to constitution of Special Court under Explosive Substances Act, has not been issued by the State Government of Punjab.

14. With regard to argument of leaned counsel for the petitioner that challan was not filed within the limitation, the learned State counsel has contended that in the present case before filing of application under Section 187(3) BNSS, the challan had been presented by the Police Officer and it was duly recorded in the order dated 24.11.2025. According to leaned State counsel although on 24.11.2025 the challan was returned by the learned Jurisdiction Magistrate, and it was filed again on 27.11.2025, yet, the orders dated 24.11.2025 and 05.12.2025 do not warrant inference of this Court,

“firstly, because the return of challan by the learned Jurisdiction Magistrate was not in conformity with law. As per learned State counsel for any lapse of the Court, the petitioner cannot draw any benefit under Section 187(3) BNSS. The State counsel has further contended that Section 187(3) of the BNSS has been incorporated with an intention to fix the default of Investigating Agency and not of the Court.

Secondly, because during the period when the challan



was returned on 24.11.2025, and till its re-filing on 27.11.2025, no application for bail, of the petitioner, under Section 187(3), was pending.

15. With regard to arguments that incomplete challan has been filed the learned State counsel has contended that if the investigation is completed without sanction of competent authority, and charge-sheet is filed within the statutory period, the accused is not entitled for the benefit of default bail. In support of above mentioned arguments, the learned State counsel has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Judgebir Singh @ Jasbir Singh Samra @ Jasbir & Ors. Vs. National Investigation Agency', 2023 (17) SCC 48 and 'Suresh Kumar Bhikamchand Jain Vs. State of Maharashtra and another', SLP (Criminal) No.147 of 2013.

16. The record has been perused carefully.

17. If the factual matrix of the present case and the relevant law are considered co-jointly, in the present case three points crop-up, which need determination in the instant petition:-

- a) whether there is provision for constitution of Special Court for the commission of offence punishable under Sections 3, 4 and 5 of Explosive Substances Act?
- b) whether the procedure adopted by the learned Jurisdiction Magistrate, whereby the challan was returned, was a proper procedure? and



- c) whether for want of necessary sanction the challan submitted by the police can be treated to be incomplete, and thus, the petitioner is entitled for bail under Section 187(3) BNSS.

Point No.1

18. As far as this point of determination is concerned, at the very outset it is pertinent to mention here that the petitioner has been prosecuted for the commission of offence punishable under Sections 3, 4 and 5 of Explosive Substances Act, and a perusal of above mentioned Act nowhere shows that there is a provision for constitution of Special Court for the trial of cases under the aforesaid Act. With regard to above even the learned State counsel has submitted, during the course of argument, that no special Court has been notified in the State of Punjab for the trial of case under Sections 3, 4 and 5 of the Explosive Substances Act. It has been contended by learned State counsel that all the cases are being dealt with by the Court of Additional Sessions Judge only.

19. In the present case, the learned counsel for the petitioner has referred to the contents of NIA Act and contended that in view of above mentioned Act there is a provision for the constitution of Special Court, for the trial of offence under Sections 3, 4 and 5 of Explosive Substances Act. However, the above mentioned arguments does not hold good in view of the fact that the provisions contained in the schedule of NIA Act refers to the Special Court constituted under NIA Act, and such Court deals with the cases investigated by the NIA only. Since the present case has not been investigated



by the NIA the above mentioned statutory provisions is not applicable to the instant case.

Point No.2

20. As far as the order dated 24.11.2025 passed by the learned Jurisdiction Magistrate/Judicial Magistrate Ist Class Ajnala, with regard to return of challan is concerned, it is hereby held that the above mentioned procedure adopted by the learned Magistrate was not correct. Even if the challan had been filed in the wrong Court, this action of the of learned Judicial Magistrate was not in conformity with law that the challan was returned to the police with a direction to file the same in the Special Court. The proper procedure to be adopted by the learned Judicial Magistrate would have been to seek the transfer of above mentioned challan to the competent Court, by preferring a reference to the learned Sessions Judge. The order with regard to return of the challan was totally illegal, perverse and contrary to the settled principles of law.

Point No.3

21. As far as this point is concerned with regard to offence under Section 25(8) of the Arms Act, the case of the petitioner is squarely covered by the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Judgebir Singh (supra)' and 'Suresh Kumar Bhikamchand Jain (supra)'.

22. As a sequel to abovementioned observations recorded with regard to abovementioned three points of determination, and other facts and circumstances of the present case, it is hereby held that no illegality, whatsoever, has been committed by the



learned Additional Sessions Judge/Special Judge while passing the impugned orders dated 24.11.2025 and 05.12.2025. Hence, it is hereby held that the present petition is devoid of merits and deserves dismissal. Hence the same is hereby **dismissed** accordingly.

Pending miscellaneous application(s), if any, also stands disposed of.

(SURYA PARTAP SINGH)
JUDGE

17.03.2026
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No