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

CRR No.3228 of 2025

Reserved on: 01.04.2026

Pronounced on: 08.05.2026

Uploaded on: 08.05.2026

Gurmukh Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ramnish Puri, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present revision petition has been filed by the petitioner praying for setting aside the impugned order dated 19.11.2025 passed by the learned Additional Sessions Judge, Amritsar, vide which the application filed by the petitioner under Section 187(3) BNSS (earlier Section 167(2) Cr.P.C.) for the grant of default bail was declined and the application filed by the prosecution for extension of time for filing the status report under Section 36(A)(4) of NDPS Act in a case bearing FIR No.40, dated 14.05.2025, under Sections 21(c), 25, 27-A and 29 of NDPS Act, registered at Police Station Verka, District Amritsar was allowed.
2. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in case bearing FIR No.40, dated 14.05.2025, under Sections 21(c), 25, 27-A and 29 of NDPS Act,



registered at Police Station Verka Amritsar, District Amritsar and was arrested on the same day, i.e. 14.05.2025. He has submitted that after registration of the FIR, the statutory period for filing the challan was expired on 10.11.2025. He has submitted that since then, he is in custody for a period of more than 180 days, but the challan was not presented within this period, which gave him indefeasible right of being released on default bail under Section 187(3) of BNSS (earlier Section 167(2) Cr.P.C.). He has submitted that the Investigating Agency had filed an application seeking extension of time for presentation of the challan on the 180th day itself, i.e. on 10.11.2025 and the learned trial Court had illegally allowed the application vide impugned order dated 19.11.2025 with extension of one month time. He has further submitted that the pendency of FSL report is not a compelling ground. He has further submitted that after the completion of 180 days, the petitioner moved an application on the very next day, i.e. 11.11.2025 praying for the grant of default bail under Section 187(3) Cr.P.C. (earlier Section 167(2) Cr.P.C.) before the learned trial Court, however, at this stage, neither any challan was filed nor the application filed by the prosecution was allowed and the learned trial Court had dismissed the application filed by the petitioner for default bail vide order dated 19.11.2025. He has submitted that the Investigating Agency has not given any specific ground as to why the detention of the petitioner was required beyond the period of 180 days. To buttress his arguments, learned counsel for the petitioner has relied upon the decision passed by Hon'ble the Supreme Court in '*Sanjay Kumar Kedia @ Sanjay Kedia vs. Intelligence Officer, Narcotic Control Bureau and another*', 2010 (1)



RCR (Criminal) 942; '*Hitendra Vishnu Thakur and others vs. State of Maharashtra and others*', (1994) 4 SCC 602 and by this Hon'ble Court in '*Ranjit Singh @ Rana vs. State of Haryana*', CRR No.2087 of 2014, decided on 08.02.2017, etc. He has thus submitted that the impugned order dated 19.11.2025 whereby the application for extension of time for filing the challan was allowed as well as the application of the petitioner for default bail was dismissed passed by the Courts below has been passed without appreciating the real facts and as such the same are liable to be set aside.

3. Reply dated 30.03.2026 by way of an affidavit of Anubhav Jain, IPS, Assistant Commissioner of Police, Amritsar East, Commissionerate, Amritsar on behalf of the respondent-State has been filed by learned State counsel today in the Court, which is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

4. Learned counsel for the State, however, has opposed the submissions made by counsel for the petitioner. He has submitted that in the absence of the Chemical Examiner report, it is not possible to present the challan in the Court. He has submitted that the contraband weighing 500 grams of heroin was recovered from the petitioner and he was arrested on the spot on 14.05.2025. He has further submitted that the investigation in the present case is of a serious nature involving a commercial quantity of narcotics and organized drug trafficking. He has submitted that the trial of the drug network and its sources is still under investigation. He has further submitted that the Investigating Officer has forwarded the application for extension of time on 07.11.2025 before the Duty Magistrate



concerned through the Public prosecutor, but the same was not taken by the learned Court as the learned Additional Sessions Judge was on leave and the learned Magistrate directed to move the application before the concerned Court. He has further submitted that custody period of the petitioner of 180 days was going to expire on 10.11.2025 and the Investigating Officer has again filed an application for extension of time for filing the challan within the statutory period of 180 days, i.e. on 10.11.2025. He has submitted that the learned trial Court issued notice in the application to the petitioner for 13.11.2025 and the petitioner filed the reply to the application on the same day, i.e. 13.11.2025. He has submitted that the learned trial Court had rightly allowed the application for extension of time vide order dated 19.11.2025. He has submitted that as the challan was not filed, the petitioner moved an application for default bail on 11.11.2025 and the same was also dismissed on 19.11.2025. He has further submitted that the order passed by the learned Additional Sessions Judge, Amritsar suffers from no illegality or irregularity and thus, the present revision petition is liable to be dismissed.

5. Heard.

6. Admittedly, the present FIR was registered on 14.05.2025 and the petitioner was also arrested on the same day. The period of 180 days of custody of the petitioner was going to expire on 10.11.2025, however, the challan was not filed within the statutory period. As the report from the Chemical Examiner was not received, the Investigating Agency moved an application on 180th day, i.e. on 10.11.2025 for extension of time for filing the challan. The learned trial Court allowed the same vide its order dated



19.11.2025. A perusal of the record would show that the petitioner has moved an application for default bail on the very next day after the completion of 180 days, i.e. on 11.11.2025, however the same was dismissed on 19.11.2025. The learned trial Court has observed that the investigation is still pending qua the offence under Section 27-A of NDPS Act and report of the chemical examiner is still awaited and, thus to this, there is a delay of filing the challan and further period of one month was extended to present the challan.

7. **For resolving the controversy involved in the present case, appreciation of Section 187(3) of BNSS and Section 36-A of the NDPS Act, is essential, which reads as under:-**

“Section 187(3)- The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding-

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of ten years or more;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXV for the purposes of that Chapter.”

“36A. Offences triable by Special Courts:-

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(4) In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 (2 of



1974), thereof to "ninety days", where they occur, shall be construed as reference to "one hundred and eighty days": Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on 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 one hundred and eighty days.'

8. From the bare reading of the above-said Sections, it is clear that after completion of mandatory period required for completion of investigation and presentation of challan before the competent Court i.e. within 180 days, indefeasible right accrues to the accused to be released on default bail. However, in the present case, the statutory period of 180 days for filing the challan was to expire on 10.11.2025, however, the Investigating Agency moved an application seeking extension of time for filing the challan on the last day itself, i.e. on 10.11.2025. Thereafter, the petitioner filed an application for grant of default bail on the very next day, i.e. on 11.11.2025 and at this stage, neither any challan was filed nor the application filed by the prosecution was allowed. However, both the applications filed by the prosecution as well as by the petitioner were decided on the same day, i.e. on 19.11.2025 in which application filed by the prosecution was allowed and one month further time was extended for filing the challan whereas the application filed by the petitioner was dismissed.

9. Hon'ble Supreme Court in '*Uday Mohanlal Acharya vs. State of Maharashtra*', 2001(2) RCR (Criminal) 452 while discussing the scope of default bail concluded as under:

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“1. Under sub-section (2) of Section 167, a Magistrate before whom an accused is produced while the police is investigating into the offence can authorise detention of the accused in such custody as the Magistrate thinks fit for a term not exceeding 15 days in the whole.

2. Under the proviso to aforesaid sub-section (2) of Section 167, the Magistrate may authorise detention of the accused otherwise than the custody of police for a total period not exceeding 90 days where the investigation relates to offence punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, and 60 days where the investigation relates to any other offence.

3. On the expiry of the said period of 90 days or 60 days, as the case may be, an indefeasible right accrues in favour of the accused for being released on bail on account of default by the Investigating Agency in the completion of the investigation within the period prescribed and the accused is entitled to be released on bail, if he is prepared to and furnish the bail, as directed by the Magistrate.

4. When an application for bail is filed by an accused for enforcement of his indefeasible right alleged to have accrued in his favour on account of default on the part of the Investigating Agency in completion of the investigation within the specified period, the Magistrate/Court must dispose of it forthwith, on being satisfied that in fact the accused has been custody for the period of 90 days or 60 days, as specified and no charge-sheet has been filed by the Investigating Agency. Such prompt action on the part of the Magistrate/Court will not enable the prosecution to frustrate the object of the Act and the legislative mandate of an accused being released on bail on account of the default on the part of the Investigating Agency in completing the investigation within the period stipulated.

5. If the accused is unable to furnish bail, as directed by the Magistrate, then the conjoint reading of Explanation I and proviso to sub-section (2) of Section 167, the continued custody of the accused even beyond the specified period in paragraph (a) will not



be unauthorised, and, therefore, if during that period the investigation is complete and charge-sheet is filed then the so-called indefeasible right of the accused would stand extinguished.

6. The expression 'if not already availed of' used by this Court in Sanjay Dutt's case (supra) must be understood to mean when the accused files an application and is prepared to offer bail on being directed. In other words, on expiry of the period specified in paragraph (a) of proviso to sub-section (2) of Section 167 if the accused files an application for bail and offers also to furnish the bail, on being directed, then it has to be held that the accused has availed of his indefeasible right even though the Court has not considered the said application and has not indicated the terms and conditions of bail, and the accused has not furnished the same."

10. Similarly in '*Enforcement Directorate Government of India vs. Kapil Wadhawan and another etc.*', 2023(2) RCR (Criminal) 474, Hon;ble Supreme Court held as under:-

"50. Since there exists vacuum in the application and details of section 167 CrPC, 1973 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 chargesheet 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 chargesheet, later in the day, at 11:15 AM. Thus, the default bail Applications were filed well before the chargesheet. 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 chargesheet/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, 1973 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, 1973. In cases where the chargesheet/final report is filed on or after the 61st/91st day, the accused in our considered opinion would 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.”

11. The undisputed facts of the present case are detailed herein below:

S. No.	Date	Annexure	
1.	14.05.2025	Annexure P-3	The petitioner was arrested in FIR No.40, dated 14.05.2025, under Sections 21(c), 25, 27-A and 29 of NDPS Act, registered at Police Station Verka, District Amritsar
2.	10.11.2025		Expiry of statutory period of 180 days
3.	10.11.2025	Annexure P-1	Application under Section 36A(4) of NDPS Act for extension of time for filing the final report/challan was filed by the public prosecutor concerned on the ground that the FSL has not been received and the present case is of serious nature and organized drug trafficking.
4.	11.11.2025	Annexure P-2	Application under Section 187(3) BNSS (erstwhile Section 167(2) Cr.P.C.) for the grant of default bail was filed by the petitioner.
5.	13.11.2025	Annexure P-4	Reply to the application under Section 36A(4) of NDPS Act for extension of period for filing the final report/challan under Section 193 BNSS
6.	19.11.2025	Impugned order Annexure P-	Application filed by the State for extension of period for filing the final report/challan under Section 193 BNSS was allowed and a period of one month was granted to complete the investigation. Applications filed by the petitioner and other co-accused under Section 187(3) of BNSS (erstwhile Section 167(2) Cr.P.C.) for the grant of default bail were dismissed.

12. The issue which needs determination is whether the reasons given for allowing the application under Section 36A(4) of NDPS Act, to extend the time period by one month for permitting the prosecution to



complete the investigation and for presentation of the challan and thus, defeating the statutory right of the petitioner for grant of default bail are valid and sufficient to prolong incarceration of the petitioner. The relevant para of the impugned order dated 19.11.2025 reproduced as under:

“In the present case, the learned Addl. P.P. for the State has submitted in his report that the report of Chemical Examiner from the office of RTFSL is still awaited. He further contended that a large amount of drug money of Rs.15,01,900/- has been recovered from the accused in this case and the offence under Section 27-A of the Act is also incorporated in the FIR. He urged that investigation is still pending for determining the trail of the drug money to nab the actual perpetrators of the crime, who are responsible for smuggling of contrabands on large scale across the border. In view of the averments made in the application as well as in the report of the learned Addl.P.P.for the State and also in view of the fact that the investigation is still pending qua the offence under Section 27-A of the Act and report of Chemical Examiner is still awaited, the application in hand stands allowed and a period of one month is granted for to complete the investigation. Consequently, the bail applications moved by the accused Gurmukh Singh, Varinderpal Singh and Taljinder Kumar alias Honey, under Section 187(3) of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, stand dismissed. Present file as well as the papers of all the three bail applications be attached with the remand papers of the accused pending in the Court.”

13. A perusal of the relevant portion of the impugned order dated 19.11.2025 would show that the application for extension of time beyond 180 days moved by the prosecution was allowed by giving specific reason that chemical examiner report from office of RTFSL is awaited and a large amount of drug money has been recovered from the accused and also for determining the trial of the drug money to nab actual perpetrators of the crime.



14. A Coordinate Bench of this Court in '*Hargobind Singh vs. State of Punjab*' 2014(3) RCR (Criminal) 73, has held as under:

“15. In the first instance, it may be recorded that there has been a non-compliance of the provisions contained in Section 36- A of the Act. The provision mandates a report of the Public Prosecutor indicating the progress of the investigation as also the specific and compelling reasons for seeking the detention of the accused beyond a period of 180 days. A perusal of the application preferred by the prosecution seeking extension of time under Section 36-A of the Act at Annexure P2 would reveal that the basis for seeking extension was two-fold, i.e. (i) the investigation has to cover various parts of India as also Pakistan, England and Canada and (ii) **the Chemical examination report of Forensic Science Laboratory, Chandigarh is yet awaited. On such application, the trial Court granted the extension of 30 days vide order dated 11.2.2014 at Annexure P4 by merely re-producing the bald averments made at the hands of the prosecution in the application seeking extension. This Court would have no hesitation in observing that the order dated 11.2.2014 passed by the trial Court granting extension of 30 days for completion of investigation was done in a routine and mechanical fashion.**”

15. While relying upon a decision rendered in '*Sanjay Kumas Kedia @ Sanjay Kedia vs. Intelligence Officer, Narcotic Control Bureau and another*', 2010 (1) RCR (Criminal) 942 by Hon'ble the Supreme Court, a Coordinate Bench of this Court in '*Joginder Singh vs. State of Haryana*', 2022 (3) RCR (Criminal) 99 has held as under:

“In the case in hand, the application for extension signed by the Investigating Officer cannot be construed as a report of the Public Prosecutor as envisaged in Proviso to sub section (4) of Section 36A of the NDPS Act for the reason that Public Prosecutor had only appended his signatures at the bottom of the page, that too, without even making an endorsement that he had perused the grounds and that, he was satisfied about the progress



of investigation and reasons set out for extension of time to complete the investigation. Further, the report did not disclose the progress of investigation. It is a settled proposition of law that a report is not a mere formality but requires due application of mind as to the ground for delay in filing challan and the reasons for further detention of accused. In the considered view of this Court, the application/report filed by the prosecution did not meet the aforesaid requirements envisaged in Proviso to Section 36A(4) of the NDPS Act. It can safely be held that the application for seeking extension of time was nothing but a transmission of request of an Investigating Officer. The report did not reflect the steps taken for obtaining FSL report during the period of first 180 days.

In similar circumstances, the Hon'ble Supreme Court in the case of Sanjay Kumar Kedia (supra) held as under:-

“10. The maximum period of 90 days fixed under Section 167(2) of the Code has been increased to 180 days for several categories of offence under the Act but the proviso authorizes a yet further period of detention which may in total go upto one year, provided the stringent conditions provided therein are satisfied and are complied with. The conditions provided are :

- (1) a report of the public prosecutor,
 - (2) which indicates the progress of the investigation, and
 - (3) specified the compelling reasons for seeking the detention of the accused beyond the period of 180 days, and
 - (4) after notice to the accused.
- xx xx xx xx 14. A bare perusal of the application shows that it has been filed by the investigating officer of respondent No.1 and does not indicate even remotely any application of mind on the part of the public prosecutor. It further does not indicate the progress of the investigation, nor the compelling reasons which required an extension of custody beyond 180 days. This application was allowed by the Special Judge on 2nd August, 2007 i.e. on the day on which it was filed which also reveals that no notice had been issued to the accused and he was not even present in Court on that day.”

Record clearly reveals that the impugned order(s) lack



satisfaction of aforesaid mandatory conditions of Section 36A(4) of the NDPS Act. In the absence of an appropriate report, the court would have no jurisdiction to deny an accused his indefeasible right to be released on bail on account of the default of the prosecution to file the challan within the prescribed time if an accused seeks and is prepared to furnish the bail bonds as directed by the court. Moreover, no extension can be granted to keep an accused in custody beyond the prescribed period except to enable the investigation to be completed and as already stated above, before any extension is granted, the accused must be put on notice and permitted to have his say so as to be able to object to the grant of extension.

As regards Section 167(2) Cr.P.C., it creates an indefeasible right in an accused person, on account of the 'default' by the investigating agency in the completion of the investigation within the maximum period prescribed or extended, as the case may be, to seek an order for his release on bail. It is for this reason that an order for release on bail under proviso (a) of Section 167(2) Cr.P.C. is generally termed as an "order-on-default" as it is granted on account of the default of the prosecution to complete the investigation and file the challan within the prescribed period. As a consequence of amendment, an accused after the expiry of 180 days from the date of his arrest becomes entitled to bail irrespective of the nature of the offence with which he is charged, where the prosecution fails to put up a challan against him on completion of the investigation. Thus, in the considered view of this Court, as per Section 167(2) Cr.P.C., an indefeasible right to be enlarged on bail accrues in favour of the accused, if the police fails to complete the investigation and put up a challan against him in accordance with law under Section 173 Cr.P.C. An obligation, in such a case, is cast upon the Court, when after the expiry of the maximum period during which an accused could be kept in custody, to decline the police request for further remand. There is yet another obligation also which is cast on the court and that is to inform the accused of his right of being released on bail and



enable him to make an application in that behalf. This legal position has been very ably stated in Aslam Babalal Desai Vs. State of Maharashtra, 1993 (1) Recent Criminal Reports 600, where speaking for the majority, the Hon“ble Supreme Court referred the law laid down in Rajnikant Jivanlal Patel & another Vs. Intelligence Officer, Narcotic Control Bureau, New Delhi, AIR 1990 Supreme Court 71, wherein it was held that:-

“The right to bail under Section 167(2) proviso (a) thereto is absolute. It is a legislative command and not court“s discretion. If the investigating agency fails to file chargesheet before the expiry of 90/96 days, as the case may be, the accused in custody should be released on bail. But at that stage, merits of the case are not to be examined. Not at all. In fact, the magistrate has no power to remand a person beyond the stipulated period of 90/96 days. He must pass an order of bail and communicate the same to the accused to furnish the requisite bail bond.”

The record clearly deciphers that application for extension of time was allowed without any notice to the petitioner. The liberty of the accused is at stake and cannot be taken away in a casual manner without affording an opportunity of hearing. **The other ingredients inasmuch as specific reasons for extension of time, the progress of the investigation and compelling reasons for detention of the petitioner beyond the period of 180 days have not been spelt out in the order extending time for completion of investigation or in the order declining default bail to the petitioner relying on extension of time to complete investigation.”**

16. Similar view has been taken by a Coordinate Bench of this Court in ‘*Ravinder @ Bhola vs. State of Haryana*’, 2023 NCPHHC 140642 and ‘*Gurmej Singh and others vs. State of Haryana and others*’, 2023(1) RCR (Criminal) 339.

17. Keeping in view the anvil of the law settled in the above mentioned judgments rendered by Hon’ble the Supreme Court as well as

by this Court, the reasons given for seeking extension of time by the prosecution does not meet parameters as laid down under Section 34A(4) of NDPS Act and non receipt of the chemical examiner report could not be stated to be a valid reason for seeking detention of accused beyond the statutory period of 180 days.

18. In view of the overall facts and circumstances of the present case, the extension of time granted vide order dated 19.11.2025 was not in accordance with law and thus, the impugned order dated 19.11.2025 is liable to be set aside. Accordingly, the application of the petitioner filed under Section 167(2) Cr.P.C. (, which creates an infeasible right in an accused person on account of the default by the investigating agency, deserves to be allowed.

19. Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 19.11.2025 passed by the learned Additional Sessions Judge, Amritsar, is hereby set aside. The petitioner is held to be entitled for default bail subject to his furnishing bail/surety bonds the satisfaction of learned trial Court/Duty Magistrate, if not required in any other case.

20. Nothing said herein shall be treated as an expression of opinion of the merits of the case.

08.05.2026

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**(RAJESH BHARDWAJ)
JUDGE**

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No