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

CRR-3299-2025**Reserved on: 17.03.2026****Pronounced on: 18.05.2026****Uploaded on: 19.05.2026****Jasbir Kaur****..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ****Present:** Mr. Sidhant Vermani, Advocate for the petitioner(s).

Mr. K.D. Sachdeva, D.A.G., Punjab.

RAJESH BHARDWAJ, J.

1. Present revision petition has been filed by the petitioner against the order dated 12.12.2025, whereby application filed by the petitioner for grant of default bail was dismissed by learned trial Court, in view of order dated 27.11.2025 passed by the learned Judge, Special Court, Amritsar, whereby the application filed by the prosecution for extension of time for filing the challan under Section 36(A)(4) of NDPS Act in a case bearing FIR No.106, dated 04.06.2025, under Sections 21, 21(c), 29, 61, 85 of NDPS Act, registered at Police Station Chheharta, Amritsar, was allowed.



2. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in case bearing FIR No.106, dated 04.06.2025, under Sections 21, 21(c), 29, 61, 85 of NDPS Act, registered at Police Station Chheharta, Amritsar and was arrested on 04.06.2025. He has submitted that after registration of the FIR, the statutory period for filing the challan expired on 30.11.2025. 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 her 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 on 15.11.2025 moved an application seeking extension of time for presentation of challan and the learned trial Court had illegally allowed the application vide order dated 27.11.2025 with extension of two months time. He has submitted that the pendency of FSL report is not a compelling ground to extend the custody of the petitioner beyond the period of 180 days. He has further submitted that after the completion of 180 days, the petitioner moved an application 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, the learned trial Court, dismissed the application filed by the petitioner for default bail vide order dated 12.12.2025. He submits 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 this



Hon'ble Court in '*Mahender Vs. State of Haryana, CRR-662-2023*'; '*Punma Ram Vs. State of Haryana, CRR-1427-2023*'; '*Sahid Vs. State of Haryana, CRR-2697-2023 and CRR-2696-2023*'; '*Sanjay Kuma Kedia @ Sanjay Kedia vs. Intelligence Officer, Nrcotic Control Bureau and another*'; '*Gulam Navi @ Gami Vs. State of Haryana, CRR-1528-2023 and CRM-M-27369-2023*' and '*Navneet Vs. State of Haryana, CRR-1759-2023*'. He has thus, submitted that order dated 27.11.2025 whereby the application for extension of time for filing the challan was allowed as well as order dated 12.12.2025, vide which the application of the petitioner for default bail was dismissed, passed by the trial Court have been passed without appreciating the real facts and as such the same are liable to be set aside.

3. Notice of motion.

4. On asking of the Court, Mr. K.D. Sachdeva, D.A.G., Punjab appears and accepts notice on behalf of the respondent-State. He, however, has opposed the submissions made by counsel for the petitioner. He has submitted that in the absence of the chemical report, it is not possible for investigating agencies to present the challan in the Court. He has submitted that the petitioner was arrested on 04.06.2025 and her custody of 180 days was going to expire on 30.11.2025 and the application for extension of time for filing the challan was moved on 15.11.2025, which is well before the expiry of the same and the learned Judge, Special Court, Amritsar had rightly allowed the same vide order dated 27.11.2025. He has submitted that the petitioner moved an application for



default bail on 12.12.2025 which was beyond statutory period of 180 days and after application for extension of time filed by the prosecution was accepted by the trial Court and two months time was granted to the investigating agency for filing of challan/final report. He has further submitted that since the application for extension of time was allowed, therefore, petitioner was not entitled for default bail and his application was rightly dismissed. He has further submitted that the orders passed by the learned Judge, Special Court, Amritsar suffer 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 04.06.2025 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 30.11.2025, 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 15.11.2025 for extension of time for filing the challan. The learned trial Court allowed the same vide its order dated 27.11.2025. The learned trial Court has opined that there is every possibility of delay may have occasioned in obtaining the report of chemical examiner and thus to this, there is a delay of filing the challan and further period of two month was extended to present the challan. A perusal of the record would show that the petitioner moved an application for default bail on 12.12.2025, however, the same was dismissed by



learned trial Court by observing that the application for extension of presentation of challan had already been allowed on 27.11.2025 and as such the application for grant of default bail, was not maintainable.

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 30.11.2025, and the Investigating Agency moved an application seeking extension of time for filing the challan on 15.11.2025 and the same was allowed on 27.11.2025. Thereafter, the petitioner filed an application for grant of default bail on 12.12.2025 and at this stage, no challan was filed, however, the application filed by the prosecution was allowed and two months further time was extended for filing the challan whereas the application filed by the petitioner was dismissed vide order dated 12.12.2025.

9. Hon’ble Supreme Court in ‘*Uday Mohanlal Acharya vs. State of Maharashtra*’, 2001(2) RCR (Criminal) 452 while relying upon several judgments recorded its conclusion as under:-

X X X X X X X



“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.	04.06.2025	Annexure P-1	The petitioner was arrested in FIR No.0106, dated 04.06.2025, under Sections 21(c) of NDPS Act, registered at Police Station Chheharta, District Police Commissionerate, Amritsar.
2.	15.11.2025	Annexure P-3	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 investigation is multidimensional and evidence is scattered and thus, could not be completed within stipulated period.
3.	26.11.2025	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
4.	27.11.2025	Annexure P-5 (Impugned order)	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 two month was granted to complete the investigation.
5.	30.11.2025		Expiry of statutory period of 180 days
6.	12.12.2025	Annexure P-2	Application filed by the petitioner 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 two 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 27.11.2025 reproduced as under:

“I have gone through the rival contentions raised by both the sides besides and gone through the record carefully. In the present case, accused Jasbir Kaur was arrested on 04.06.2025 and period of 180 days of custody are going to expire on 30.11.2025. The application for extension of time for presentation of challan has been preferred by the Ld. Addl. PP on 15.11.2025 i.e. well before the expiry of 180 days and the recitals of the application explains the reasons for extension of time. It is averred in the application that as investigation is multifaceted and multidimensional and evidence is scattered, investigation could not be completed within stipulated period and the recovery effected in the present FIR falls in the category of commercial quantity. **Further it is averred in the application that report Chemical Examiner is yet to be received and it is not mandatory as per the provisions of Section 36A(4) of the NDPS Act that application should be accompanied by an extra report or in a particular format. The objective of an application under Section 36A(4) of the NDPS Act is to require the public prosecutor to intimate the Court regarding the progress of the investigation and the specific reason for the detention of the accused beyond a period of 180 days. The validity of the application and the soundness of the reasons is not to be assessed.** Henceforth, this court is of the considered view that the application for seeking extension of time is in accordance with the provision of Section 36 of the NDPS Act. In view of aforesaid reasons, the application for extension of time to present the challan stands allowed and further period of two months is extended from the date of order. The application is disposed of accordingly. .”



13. A perusal of the relevant portion of the impugned order dated 27.11.2025 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 is awaited and the investigation is multifaceted and multidimensional and evidence is scattered. It is pertinent to mention here that 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 and the Public Prosecutor has only given reason that the investigation is multifaceted and multidimensional, however, neither any grounds/reasons for detention of the petitioner beyond the statutory period of 180 days was mentioned nor the progress of trial has been explained in the same. It is a settled position of law that report by Public Prosecutor 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.

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 Kumar 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 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 NCPHC 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 36A(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 27.11.2025 was not in accordance with law and thus, the impugned order dated 27.11.2025 is liable to be set aside. Accordingly, application of the petitioner filed under Section 167(2) Cr.P.C. which creates an indefeasible 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 27.11.2025 passed by learned Judge, Special Court, Amritsar, is hereby set aside along with order dated 12.12.2025, whereby, application for default bail filed by the petitioner was dismissed. The petitioner is held to be entitled for default bail subject to her 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.

18.05.2026
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(RAJESH BHARDWAJ)
JUDGE

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