



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

Sr. No.256

**CRR-693-2026
Date of Decision: 24.04.2026**

MINARWA DEVI

...Appellant

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Vaibhav Sharma, AAG, Haryana.

MANDEEP PANNU, J. (Oral)

1. The present revision petition has been filed against the order dated 21.02.2026, whereby the learned JMIC, Faridabad dismissed the application for default bail under Section 167(2) of the Code of Criminal Procedure (now Section 187(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023) filed by the petitioner in FIR No. 128 dated 26.09.2024, registered under Sections 318(4), 61(2) of the Bharatiya Nyaya Sanhita, 2023 (earlier Sections 420 and 120-B IPC) at Police Station Cyber Crime, Ballabgarh, District Faridabad.

2. Briefly stated, the facts of the case are that the present FIR was registered on the statement of the complainant on 26.09.2024 under Sections 318(4) and 61(2) of the Bharatiya Nyaya Sanhita, 2023 (corresponding to Sections 420 and 120-B IPC). The present petitioner was arrested on 29.11.2025, on which date his transit remand was obtained for three days, and he was produced before the Court on 01.12.2025. Thereafter, the challan



in the present case was presented on 12.02.2026. The application for grant of default bail under Section 167(2) Cr.P.C. (now Section 187(3) BNSS) was moved on 21.02.2026. The said application came to be dismissed by the learned JMIC, Faridabad vide impugned order dated 21.02.2026 on the ground that the application for default bail had been filed after the presentation of the challan against the petitioner. Accordingly, the said application was dismissed.

3. Learned counsel for the petitioner has contended that although the application for default bail was filed after about nine days of the presentation of the challan, however, since the challan was not filed within the stipulated period of sixty days, an indefeasible right had accrued in favour of the petitioner. It is argued that once the statutory period prescribed under Section 167(2) Cr.P.C. expired without filing of the challan, the Court was bound to grant default bail to the petitioner. The subsequent filing of the challan, according to learned counsel, would not defeat the vested right of the petitioner, which had already accrued on account of non-compliance with the statutory period.

4. *Per contra*, learned State counsel has opposed the present revision petition. It is submitted that the petitioner was arrested on 29.11.2025 at Bhubaneswar (Odisha), whereafter transit remand for three days was obtained and she was produced before the learned Court at Faridabad on 01.12.2025. Thereafter, police remand for eight days was granted and she was sent to judicial custody. It is further contended that the challan was presented on 12.02.2026 and the petitioner was required to avail the right of default bail on the very same day, if so advised. However, the



petitioner chose to file the application for default bail only on 21.02.2026, i.e. after a delay of nine days. It is argued that the petitioner is not entitled to claim default bail at such a belated stage after the filing of the challan. Learned State counsel has relied upon the judgment of the Hon'ble Supreme Court in *Sanjay Dutt v. State through CBI, Bombay, reported as (1994) 5 SCC 410*, to contend that the right of default bail is an indefeasible right but the same is enforceable only till the filing of the challan, and if not availed of prior thereto, the said right stands extinguished.

5. I have heard learned counsel for the parties and have gone through the record carefully. The admitted position in the present case is that the challan was presented on 12.02.2026, whereas the application for default bail was filed on 21.02.2026, i.e. after a delay of nine days from the date of presentation of the challan. The legal position on the issue is no longer res integra. The Hon'ble Supreme Court in *Sanjay Dutt's case (supra)* has categorically held that the indefeasible right accruing to an accused under Section 167(2) Cr.P.C. is enforceable only prior to the filing of the challan and does not survive or remain enforceable once the challan has been filed, if the same has not already been availed of.

6. In the present case, the petitioner did not avail of the said right prior to the filing of the challan. Once the challan stood presented, the right, if any, stood extinguished and the application filed thereafter was not maintainable. In view of the settled legal position and the facts of the present case, this Court finds no illegality or infirmity in the impugned order passed by the learned JMIC, Faridabad.



7. Accordingly, finding no merit in the present revision petition, the same is hereby dismissed.

8. However, it is clarified that nothing observed herein shall be construed as an expression on the merits of the case.

9. All pending applications, if any, also stand disposed of.

(MANDEEP PANNU)
JUDGE

24.04.2026

Anu

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