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

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**CRR-501-2026 (O&M)
Date of decision: 17.07.2026**

Sonu Kumar Saroj

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Pushp Jain, Advocate
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The present criminal revision petition has been filed assailing the order dated 27.01.2026 passed by the learned Judge, Special Court, Kapurthala, whereby the application filed by the petitioner under Section 187(3) of the BNSS (*erstwhile Section 167(2) Cr.P.C.*) seeking statutory/default bail was dismissed and simultaneously, the application moved by the prosecution for extension of time to present the final report was allowed. The petitioner seeks setting aside of the impugned order and prays for grant of statutory/default bail.

2. The prosecution case arises out of FIR No.163 dated 15.07.2025 registered at Police Station City Phagwara, District Kapurthala under Section 22 of the NDPS Act, 1985, to which Section 223 of the Bharatiya Nyaya Sanhita, 2023 was subsequently added. The petitioner, a registered pharmacist, was arrested in connection with the said FIR on the allegation that he was involved in the sale of narcotic medicines and capsules. As the investigation was not completed within the prescribed period, the prosecution moved an application

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dated 09.01.2026 before the learned Special Court seeking extension of time for presentation of the challan. The petitioner opposed the said application by filing a detailed reply. Thereafter, on 16.01.2026, the petitioner moved an application under Section 187(3) of the BNSS claiming statutory/default bail on the ground that the stipulated period had expired and no challan had been presented. The learned Special Judge, Kapurthala, vide the impugned order dated 27.01.2026, allowed the prosecution's application for extension of time and dismissed the petitioner's application for default bail. Aggrieved against the said order, the present revision petition has been preferred.

3. Learned counsel for the petitioner has argued that the impugned order is not sustainable in the eyes of law as the petitioner's indefeasible right to statutory/default bail, which accrued on expiry of the prescribed period under Section 187(3) BNSS, could not have been defeated by allowing the prosecution's application for extension of time in a mechanical manner. It is submitted that the prosecution failed to disclose any compelling or exceptional circumstances warranting extension of time. The sole ground taken was the non-receipt of the FSL report, which cannot constitute a valid reason to deny the valuable right of default bail. It is further submitted that there was considerable and unexplained delay on the part of the investigating agency in forwarding the samples to the FSL and in pursuing the report thereafter. Even the reminder letters relied upon by the prosecution were issued only towards the end of the statutory period. The application seeking extension of time was moved merely two days before expiry of the statutory period. The Public Prosecutor's report accompanying the application also did not disclose the progress of investigation or specify compelling reasons justifying further detention of the petitioner, as

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mandated under Section 36-A(4) of the NDPS Act. Hence, it is urged that the petition deserves to be accepted, the impugned order is liable to be set aside and the petitioner deserves to be given the benefit of default bail.

4. *Per contra*, learned State counsel has argued that there is no infirmity or illegality in the impugned order and the learned Special Court has rightly exercised the jurisdiction vested in it while granting extension of time. It is submitted that the investigation could not be completed within the prescribed period for reasons beyond the control of the investigating agency as the FSL report was awaited. The samples had been forwarded for chemical examination and reminders were also issued to the concerned laboratory. Immediately after receipt of the FSL report, the same was transmitted to the Investigating Officer and the final report was presented before the trial Court without any avoidable delay. The delay was neither deliberate nor attributable to any negligence on the part of the investigating agency. The learned Special Court, after considering the material placed on record as well as the report of the Public Prosecutor, was satisfied that sufficient grounds existed for extension of time and, therefore, rightly rejected the petitioner's claim for statutory bail. It is, thus, urged that the present revision petition, being devoid of merit, deserves to be dismissed.

5. This Court has heard the rival submissions.

6. Before advertng to the rival submissions, it would be apposite to notice the settled legal position governing the grant of statutory/default bail under Section 187(3) of BNSS read with Section 36-A(4) of the NDPS Act. The Hon'ble Supreme Court in ***Union of India v. Nirala Yadav, (2014) 9 SCC 457***, after considering the earlier Constitution Bench decision in ***Sanjay Dutt v. State, 1994 (3) RCR (Criminal) 567*** as well as its three-Judge Bench decision in ***Uday***

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Mohanlal Acharya v. State of Maharashtra, 2001 (2) RCR (Criminal) 452, had reiterated that the right to default bail is an indefeasible statutory right which accrues immediately upon expiry of the prescribed period of investigation, provided no valid order extending time has been passed and the accused avails of such right by filing an application expressing his readiness to furnish bail. The Court further held that once such right has been invoked by the accused, it cannot be frustrated by subsequently adjourning the consideration of the application or by permitting the prosecution to defeat the accrued right through subsequent events. It was emphatically observed that the Court is under a legal obligation to decide an application seeking statutory/default bail forthwith and cannot act in a manner so as to extinguish a right conferred upon the accused by law. Equally, where an application seeking extension of time is pending, the Court is required to examine the same strictly in accordance with the statutory requirements before depriving the accused of the benefit of default bail. Similar view was expressed in ***Mohammad Iqbal Madar Sheikh v. State of Maharashtra, 1996 (1) RCR (Criminal) 540***.

7. The aforesaid principle of law has consistently been followed by this Court in cases arising under Section 36-A(4) of the NDPS Act. In ***Jagseer Singh v. State of Punjab, 2014 (22) RCR (Criminal) 679***, it was held that although the prosecution had moved an application seeking extension of time before expiry of 180 days, the same was neither decided nor the notice was effectively served upon the accused before expiry of the statutory period. It was held that once the prescribed period had expired and the accused had thereafter invoked his right under Section 167(2) Cr.P.C., the indefeasible right to statutory bail had crystallised and could not be defeated merely because the

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application for extension came to be allowed subsequently. Similar is the view expressed by this Court in ***Satnam Singh v. State of Punjab, 2014 (3) RCR (Criminal) 591***, wherein the prosecution had moved an application for extension before expiry of the statutory period, but no order had been passed thereon when the accused filed an application claiming default bail. The learned Special Judge subsequently granted extension and dismissed the application for statutory bail. Relying upon ***Nirala Yadav's case (supra)***, this Court held that the relevant date for determining the entitlement of the accused was the date on which the application under Section 167(2) Cr.P.C. was filed. Since, on that date, no order extending time existed, the subsequent grant of extension was held incapable of defeating the accrued statutory right of the accused.

8. Reference can also be made to ***Kamaljit Singh @ Kamal @ Soni v. State of Punjab, 2015 (8) RCR (Criminal) 248***, this Court reiterated that the mere filing of an application seeking extension of time before expiry of the statutory period is of no legal consequence unless the Court actually passes an order extending time before the right under Section 167(2) Cr.P.C. accrues. It was held that where the order granting extension was passed only after the accused had acquired the statutory right and had asserted the same, such subsequent order could not deprive the accused of the benefit of default bail. The same principle was reiterated by this Court in ***Amrik Singh v. State of Punjab, 2015 (6) RCR (Criminal) 355***, wherein it was held that an order granting extension of time cannot be permitted to operate retrospectively so as to nullify an indefeasible right which had already accrued upon expiry of the prescribed period. It was observed that where, on the date the accused invoked his right under Section 167(2) Cr.P.C., there existed no judicial order extending

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the period of investigation, the subsequent order granting extension could not retrospectively validate the continued detention of the accused or extinguish the valuable statutory right which had already come into existence.

9. In view of the settled legal position as explained above, the impugned order cannot be sustained. Admittedly, though the prosecution moved an application seeking extension of time on 09.01.2026, no order thereon had been passed till 16.01.2026, when the petitioner invoked his statutory right by filing an application under Section 187(3) of the BNSS seeking default bail after expiry of the prescribed period. Thus, on the date the petitioner asserted his right, there was admittedly no subsisting judicial order extending the period for completion of investigation. The learned Special Court, instead of deciding the petitioner's accrued right in accordance with law, kept both applications pending and by a common order dated 27.01.2026, allowed the prosecution's application for extension of time while simultaneously rejecting the petitioner's prayer for statutory bail. Such a course of action was not in consonance with the settled principles of law.

10. There is another aspect of the matter. Section 36-A(4) of the NDPS Act confers an exceptional power upon the Special Court to extend the period prescribed for completion of investigation. Such extension is not to be granted as a matter of course but only upon a report of the Public Prosecutor indicating the progress of investigation and disclosing specific reasons necessitating further detention of the accused. The application filed by the prosecution in the present case principally rests upon the non-receipt of the FSL report. While delay in receipt of the FSL report may constitute a relevant circumstance, however, it cannot be treated as an automatic or universal ground for extension. The Court is

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required to examine whether the investigating agency acted with due diligence and whether compelling circumstances existed warranting continued incarceration of the accused. The record reveals that the reminders to the Forensic Science Laboratory were issued only towards the far end of the statutory period and no satisfactory explanation has been furnished explaining the delay in pursuing the investigation with the promptitude expected in a case involving prolonged deprivation of personal liberty. The report of the Public Prosecutor also does not disclose any exceptional circumstance justifying further detention beyond the statutory period. Consequently, the statutory requirements envisaged under Section 36-A(4) of the NDPS Act cannot be said to have been satisfactorily fulfilled.

11. In view of the foregoing discussion, this Court is of the considered opinion that the petitioner's indefeasible right to statutory/default bail had crystallised on the date he invoked the same under Section 187(3) of the BNSS. The subsequent order dated 27.01.2026 granting extension of time could neither operate retrospectively nor defeat the valuable right which had already accrued in his favour. In view thereof, the present petition is accepted. The impugned order is set aside. The petitioner is ordered to be released on statutory/default bail, subject to his furnishing bail/surety to bonds to the satisfaction of the learned trial Court/Duty Magistrate.

17.07.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No