

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

244 (3 cases)

CNR No: PHHC011134112026

2026:PHHC:121294



1. CRR-1691-2026 (O&M)

Akash

...Petitioner

Versus

State of Haryana

...Respondent

2. CRR-1694-2026 (O&M)

Vishal

...Petitioner

Versus

State of Haryana

...Respondent

3. CRR-1813-2026 (O&M)

Vishal and another

...Petitioners

Versus

State of Haryana

...Respondent

Date of decision : 31.08.2026

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ashu Bidhuri, Advocate,
Mr. Swapnam Prakash Singh, Advocate,
Mr. Kamal Singh, Advocate and
Mr. Abhimanu, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of abovementioned three petitions as they are similar in nature and seek identical relief.

2. The first two revision petitions have been filed by the petitioners assailing the common order dated 01.07.2026, passed by the Court of learned Additional Sessions Judge, Palwal in case arising out of FIR No.442 dated 22.12.2025, registered under Sections 22-C, 22-B and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short, 'the NDPS Act'*) at Police Station Hodal, District Palwal, whereby the applications filed by the petitioners under Section 187(3) of the BNSS, 2023 seeking their release on default bail in case arising out of FIR No.442 dated 22.12.2025, registered under Sections 22-C, 22-B and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short, 'the NDPS Act'*) at Police Station Hodal, District Palwal, were dismissed. The third petition has been filed challenging the order dated 29.05.2026, whereby the Court concerned had granted extension of three months to the prosecution for completing the investigation.

3. Brief facts of the case relevant for the purpose of disposal of the present petitions are that on 22.12.2025, on the basis of secret information received by the police, a raid was conducted on Chameli Road, Bhulwana, where Sanjay and Krishan Kumar were allegedly found in possession of narcotic and prohibited injections. As per the prosecution case, 30 packets containing 300 Pentazocine injections along with 20 injections of Binorphine were recovered from their possession. During investigation, the name of petitioner Akash surfaced and he was arrested on 24.12.2025. During his police remand, he disclosed the source from where the narcotic substance had been procured and, on the identification made by him, petitioner-Vishal was arrested on 25.12.2025.

4. As further revealed from the record, petitioner-Akash was sent to judicial custody on 26.12.2025, whereas petitioner-Vishal was produced before the learned Special Court on 26.12.2025, was granted one day police remand and

was thereafter remanded to judicial custody on 27.12.2025. Thus, the period of 180 days, in the case of Akash, expired on 22.06.2026 and in the case of Vishal, expired on 23.06.2026. The challan had not been presented till the expiry of the said statutory period.

5. In the meantime, the prosecution had moved an application seeking extension of time for completion of investigation and presentation of the challan. The said application was considered by the learned Additional Sessions Judge, Palwal and vide order dated 29.05.2026, a further period of three months was granted for completion of investigation. The reasons mentioned in the application included collection of data from the mobile phones through the DITAC laboratory, obtaining call detail records along with the requisite certificate, and collection of records from the concerned manufacturer of the recovered injections to establish the chain of supply. By alleging that the order dated 29.05.2026 was not sustainable and an indefeasible right had accrued in favour of the petitioners for grant of default bail, they moved applications for grant of default bail to them but the same had been dismissed vide common impugned order dated 01.07.2026. Hence, the present petitions.

6. It is argued by learned counsel for the petitioners that the aforesaid extension order dated 29.05.2026 is not sustainable qua the petitioners as neither of them was given notice of the application seeking extension nor were they or their counsel heard at the time when the said application was considered. Learned counsel has pointed out that separate remand proceedings were being maintained for Sanjay and Krishan on the one hand and Vishal and Akash on the other. It is further submitted that the zimni order dated 26.05.2026 directed issuance of notice of the extension application to the accused concerned in the proceedings then before the Court, but the petitioners, whose remand proceedings were

separately pending in REMP No.10 of 2026, were neither noticed nor heard. It is accordingly argued that the extension order cannot be relied upon to defeat the infeasible right of the petitioners to default bail. Learned counsel for the petitioners has further argued that on 29.05.2026, only the counsel appearing for accused Krishan and Sanjay addressed arguments on the application seeking extension, whereas neither the petitioners nor their counsel were present or heard. It is submitted that the right of the petitioners to default bail accrued upon expiry of the statutory period of 180 days and the same could not have been defeated by an extension order passed without complying with the mandatory safeguards prescribed by law. Hence, it is urged that the petitions deserve to be accepted and the impugned orders are liable to be quashed. To fortify his arguments, learned counsel for the petitioners has relied upon ***Jigar alias Jimmy Pravinchandra Adatiya v. State of Gujarat, (2023) 6 SCC 484.***

7. Learned State counsel, on the other hand, has opposed the present petitions. It has been argued that the application seeking extension of time was a composite application in the case arising out of FIR No.442 and was not confined only to accused Sanjay and Krishan. It is submitted that the progress of investigation qua the entire case was specifically mentioned in the report and the operative portion of the order dated 29.05.2026 granted three months' time to conclude the investigation without restricting the benefit of the order to any particular accused. It is further submitted that during investigation, sufficient evidence was found against all the four accused, namely Sanjay, Krishan, Akash and Vishal, and the charge-sheet was prepared on 24.07.2026 and submitted before the learned trial Court on 03.08.2026. It has, thus, urged that the present petitions are liable to be dismissed.

8. This Court has heard the rival submissions of learned counsel for the parties.

9. The short question which arises for consideration in the present petitions is whether the extension of three months granted by the learned trial Court vide order dated 29.05.2026 satisfies the mandatory requirements of Section 36-A(4) of the NDPS Act so as to validly extend the period of detention of the petitioners beyond 180 days and thereby defeat their right to default bail. There is no dispute that the alleged recovery falls within the commercial quantity and, consequently, the statutory period of 180 days contemplated under Section 36-A(4) of the NDPS Act was available to the prosecution. It is also not in dispute that the challan had not been presented till the expiry of the respective periods of 180 days in the case of the petitioners and that they had moved their applications seeking default bail on 25.06.2026, i.e. before presentation of the challan.

10. The proviso to Section 36-A(4) of the NDPS Act incorporates safeguards before the period of detention can be extended beyond 180 days. The requirement of informing the accused and securing his presence when the prayer for extension of the period of investigation is considered is not an empty formality. The Hon'ble Supreme Court in ***Jigar alias Jimmy Pravinchandra Adatiya's case (supra)*** has held that when the Court considers a prayer for extension of time for completing investigation, the presence of the accused has to be procured either physically or through electronic video linkage. The rationale behind such requirement is that the accused has a right to oppose the prayer for extension. The aforesaid principle assumes significance in the facts of the present case. A perusal of the record shows that the petitioners Vishal and Akash were being proceeded against in separate remand proceedings bearing REMP No.10 of

2026, whereas REMP No.9 of 2026 pertained to accused Sanjay and Krishan. The record further shows that on 26.05.2026 notice of the application seeking extension of time was directed to be issued to the accused concerned in REMP No.9 of 2026. However, no notice was issued to the petitioners or their counsel in their separate remand proceedings. Consequently, when the application for extension was considered on 29.05.2026, the petitioners were neither present before the learned Court nor represented through counsel for the purpose of opposing the prayer for extension.

11. It is, therefore, evident from the record itself that the petitioners were deprived of an opportunity to contest the prayer of the prosecution for extension of the period of investigation. The fact that the application was styled as a composite application in the case arising out of the same FIR or that the operative portion of the order did not restrict the extension to any particular accused cannot dispense with the mandatory requirement of affording the concerned accused an opportunity to be heard before an order having the effect of extending his period of incarceration beyond the statutory period is passed. The fact that the report of the learned Public Prosecutor referred to the progress of investigation in the case as a whole may be relevant for consideration of the merits of the prayer for extension, but it cannot cure the foundational defect of absence of notice and opportunity of hearing to the petitioners. The order dated 29.05.2026 has independently been challenged by the petitioners in the third petition mentioned above. Once the record demonstrates that the said order was passed without complying with the mandatory safeguard of informing and hearing the petitioners, the same cannot be relied upon qua the petitioners for the purpose of defeating their indefeasible right to default bail. The petitioners cannot be

deprived of their statutory right merely because an order affecting such right was passed in proceedings in which they were neither noticed nor heard.

12. It is equally significant that the petitioners had moved their applications seeking default bail on 25.06.2026, whereas the charge-sheet was prepared only on 24.07.2026 and submitted before the learned trial Court on 03.08.2026. Thus, the right claimed by the petitioners had already been availed by them by filing the applications for default bail before the charge-sheet came to be presented. The subsequent filing of the charge-sheet, therefore, cannot retrospectively validate the extension order dated 29.05.2026 or extinguish the right to default bail which had already accrued and been availed of by the petitioners.

13. The principle laid down by the Hon'ble Supreme Court in ***Enforcement Directorate, Government of India v. Kapil Wadhawan and another, 2023(2) RCR (Criminal) 474***, is also relevant in this context, wherein the right to default bail has been recognized as an indefeasible right once the statutory conditions stand fulfilled and the accused has availed of the same before filing of the charge-sheet/final report. The subsequent filing of the charge-sheet cannot frustrate such right. The seriousness of the allegations or the fact that the alleged offence involves commercial quantity may be relevant for consideration of regular bail on merits but cannot override the statutory right to default bail once the conditions governing such right stand satisfied.

14. In the present case, therefore, the extension granted vide order dated 29.05.2026 cannot be sustained qua the petitioners, as the mandatory safeguard of notice and opportunity of hearing was not complied with before extending the period of investigation in a manner which had the effect of defeating their statutory right to default bail. Once the said extension cannot operate against the

petitioners, they had acquired an indefeasible right to default bail upon expiry of the statutory period of 180 days. The subsequent order dated 01.07.2026 rejecting their applications merely on the ground that three months' extension had already been granted, therefore, cannot be sustained.

15. In view of the discussion made above, the present revision petitions are allowed. The order dated 29.05.2026 is set aside qua the petitioners. As a consequence, the common impugned order dated 01.07.2026 passed by the Court learned Additional Sessions Judge, Palwal, whereby the applications filed by the petitioners seeking default bail were dismissed, is also set aside. The petitioners are held entitled to default bail under Section 187(3) of the BNSS and are ordered to be released from custody, subject to their furnishing personal and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate and subject to the petitioners not being required in any other case.

16. It is clarified that nothing contained herein shall be construed as an expression of opinion on the merits of the prosecution case or the evidence collected during investigation. The subsequent filing of the charge-sheet shall also be dealt with by the learned trial Court in accordance with law.

17. Let a photocopy of this order be placed on the file of the connected cases.

31.08.2026

Waseem R. Ansari

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

Yes