



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

CRIMINAL PETITION NO. 2351 OF 2026

C/W

CRIMINAL PETITION NO. 2320 OF 2026

IN CRL.P No. 2351/2026

BETWEEN:

SRI JAGADISH P,
AGED ABOUT 53 YEARS,
S/O PADMANABAN R,
R/AT NO. 303, 3RD FLOOR,
THE CANOPY APARTMENTS,
BABUSAPALYA, KALYAN NAGAR,
BENGALURU - 560 043.

... PETITIONER

(BY SRI SANDESH.J.CHOUTA, SENIOR COUNSEL A/W
SRI SAMPREETH V, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH CID POLICE,
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
HIGH COURT BUILDING,
BANGALORE - 560 001.

... RESPONDENT

(BY SRI B.N JAGADEESHA, SPECIAL PUBLIC PROSECUTOR)

THIS CRL.P IS FILED U/S 528 OF THE BHARATIYA
NAGARIKA SURAKSHA SANHITHA, 2023, PRAYING TO SET
ASIDE THE IMPUGNED ORDER DATED 26.12.2025 PASSED BY





THE LEARNED 42ND A.C.M.M, BENGALURU LD.SPL.COURT FOR TRIAL OF CASES AGAINST MPs/MLAs IN KARNATAKA IN CRIME NO.73/2025 AND CONSEQUENTLY ALLOW APPLICATIONS FILED BY THE PETITIONERS UNDER SECTION 187(3) OF BNSS, 2023 ON 22.12.2025 AND ETC.

IN CRL.P NO. 2320/2026

BETWEEN:

1. SRI K KIRAN,
AGED ABOUT 34 YEARS,
S/O P C KRISHNA,
NO. 2009, ASHA TOWNSHIP,
DODDAGUBBI, 14TH CROSS,
NEAR BRITS CLUB,
BENGALURU - 560 077.
 2. SRI VIMAL RAJ B,
AGED ABOUT 31 YEARS,
S/O BABU RAJ,
NO. 10, VMV HOUSE,
5TH CROSS, OLD YUKO BANK ROAD,
VIJANAPURA,
BENGALURU - 560 016.
 3. SRI MADAN R,
AGED ABOUT 28 YEARS,
S/O LATE RAJAN,
NO. 327, RAMAIAH BUILDING,
1ST CROSS, RAMAMURTHYNAGAR,
K R PURAM, BENGALURU - 560 036
... PETITIONERS
- (BY SRI ARUNA SHYAM. M., SENIOR COUNSEL A/W
SRI SUYOG HERELE E., ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH CID,
REPRESENTED BY SPP,



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C/W CRL.P No. 2320 of 2026

HIGH COURT OF KARNATAKA BUILDING,
BENGALURU - 560 001.

... RESPONDENT
(BY SRI B.N JAGADEESHA, SPECIAL PUBLIC PROSECUTOR)

THIS CRL.P IS FILED U/S 528 OF THE BHARATIYA NAGARIKA SURAKSHA SANHITHA, 2023, PRAYING TO SET ASIDE THE ORDER DATED 02.02.2025 IN CRL.RP.NO.676/2025 PASSED BY THE LEARNED LXXXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BENGALURU THEREBY CONFIRMING THE ORDER DATED 26.12.2025 PASSED BY THE LEARNED XLII ADDL C.J.M, BENGLAURU IN CRIME NO.73/2025 AND CONSEQUENTIALLY ALLOW THE APPLICATION DATED 22.12.2025 FILED BY THE PETITIONERS UNDER SECTION 187(3) OF BNSS 2023 AND ENLARGE THEM ON BAIL, PRODUCED AT DOCUMENTS NO.1, 2, 3 AND 4 RESPECTIVELY AND ETC.

THESE PETITIONS COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

Criminal Petition No.2351/2026 has been filed by Petitioner/Accused No.1, while Criminal Petition No.2320/2026 has been filed by Petitioners/Accused Nos.2, 3 and 7, all challenging the order dated 02.02.2026 rejecting Crl.R.P.No.676/2025 passed by the Court of LXXXI Addl. City Civil and Sessions Judge, Bengaluru City



[CCH-82], whereby the order dated 26.12.2025 passed in Crime No.73/2025 by the Court of XLII ACJM, at Bengaluru, rejecting the applications filed by the Petitioners/Accused Nos.1, 2, 3 and 7 seeking default bail under Section 187(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 ['BNSS' for brevity] has been confirmed.

2. The brief facts are that, on 15.07.2025, the mother of the deceased Shivaprakash @ Biklu Shiva had lodged a complaint stating that eight to ten unknown individuals had fatally assaulted her son at 8.10 p.m. near their house with "long" and "machhu", who succumbed to injuries.

3. On the basis of information, FIR came to be registered in Crime No.73/2025 by Bharathinagar Police Station for the alleged offences punishable under Sections 103 and 190 of BNSS.



4. It is further stated that the Petitioners/Accused Nos.2, 3 and 7 were mentioned in the FIR and were arrested and remanded to custody on 17.07.2025.

5. Insofar as Petitioner/Accused No.1, it is stated that he had fled the Country and later he was arrested and deported to the Country and remanded to judicial custody on 26.08.2025.

6. It is made out that the case came to be transferred to CID for further investigation on 24.07.2025.

7. It is relevant to notice that in terms of the order dated 12.08.2025, CID invoked the provisions of the Karnataka Control of Organised Crime Act, 2000 ['KCOCA' for brevity].

8. The Time Line of events and legal proceedings is extracted in the Table hereinbelow for completeness of factual background:-



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DATES	EVENTS
15.07.2025	The mother of the deceased, Smt. Vijayalakshmi filed a complaint against the accused persons including the Petitioners/Accused Nos.1, 2, 3 and 7. Based on the same complaint, FIR in Crime No.73/2025 was registered in Bharatinagara P.S.
12.08.2025	CID granted approval to invoke KCOCA in Crime. No. 73/2025.
09.10.2025	Learned Special Public Prosecutor filed an application under Section 22(2) (b) of KCOCA, 2000 seeking for extension of time for a further period of 90 days before the Addl. City Civil and Sessions Judge, Bengaluru (CCH-82).
14.10.2025	Accused no. 5 i.e Sri. Byrathi Basavaraj in Crime no. 73/2025 filed W.P.No.31304/2025 seeking to quash the order dated 12.08.2025, which granted permission to invoke KCOCA against him.
17.10.2025	The Court of LXXXI Addl. City Civil and Sessions Judge, Bengaluru (CCH 82) permitted the Investigation Agency to file a Final report by granting further period of 45 days.
04.11.2025	The Petitioners/Accused Nos.2, 3 and 7 have challenged the order dated 17.10.2025 before this Court in CrI.P. No.15186/2025.
21.11.2025	Learned SPP filed another application under Section 22(2)(b) of KCOCA, 2000 for extension of further 45 days in Crime No. 73/2025 before the Addl. City Civil and Sessions Judge, Bengaluru (CCH-82).
21.11.2025	The Petitioner/Accused No.1 also challenged the order dated 17.10.2025 passed by Addl. City Civil and Sessions Judge, Bengaluru (CCH-82) by filing CrI.P. No. 16102/2025 before this Court.
28.11.2025	The Court of LXXXI Addl. City Civil and Sessions Judge, Bengaluru (CCH 82) allowed the application under Sec. 22(2)(b) of KCOCA, 2000 in part and permitted the Investigation Agency to file a Final Report by granting another period of 30 days. On the same day, CrI.P No.15186/2025, which was filed by the Petitioners/Accused Nos.2, 3 and 7 challenging the grant of further extension of 45 days was dismissed by this Court.



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19.12.2025	This Court in W.P No. 31304/2025 quashed the invocation of KCOCA, 2000.
22.12.2025	The Petitioners/Accused Nos.1, 2, 3 and 7 had filed an application u/s 187(3) of BNSS seeking default bail in Crime No.73/2025 before the Court of XLII ACJM, Bengaluru at about 12:00 pm and there was no chargesheet filed at that point of time. On the same day, the Investigation Agency submitted preliminary chargesheet at about 5:15 pm.
26.12.2025	The Court of XLII ACJM, Bengaluru rejected the application of default bail filed on 22.12.2025 by the Petitioners/Accused Nos.1, 2, 3 and 7.
27.12.2025	The State has challenged the order dated 19.12.2025 in W.P No. 31304/2025 passed by this Court quashing KCOCA, before the Apex Court in SLP (Cri.) No. 57/2026.
29.12.2025	The Petitioners/Accused Nos.1, 2, 3 and 7 being aggrieved, challenged the order dated 26.12.2025 by filing a Revision petition in CrI.R.P. No.676/2025 under Section 438 r/w 440 of BNSS, 2023 before the Court of LXXXI Addl. City Civil and Sessions Judge, Bengaluru (CCH-82), seeking to set aside the order dated 26.12.2025 passed by the XLII ACJM, Bengaluru and consequently allow the application filed u/s.187(3) of BNSS by them.
02.02.2026	The Court of LXXXI Addl. City Civil and Sessions Judge, Bengaluru (CCH-82) dismissed the Criminal Revision Petition No. 676/2025 filed by the Petitioners/Accused Nos. 1, 2, 3 and 7.
11.02.2026	The Petitioner/Accused No.1 has filed CrI. P. No. 2351/2026 while the Petitioners/Accused Nos.2, 3 and 7 have filed CrI.P No. 2320/2026, before this Court, seeking for default bail under Section 187(3) of BNSS and also prayed to set aside the impugned orders dated 02.02.2026 passed by the Court of Addl. City Civil and Sessions Judge, Bengaluru (CCH-82) and 26.12.2025 passed by the XLII ACJM, Bengaluru.



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9. In light of the claim of petitioners who seek to be enlarged on default bail, the relevant dates that are to be taken note of to decide on their right to default bail, are reflected in the Table hereinbelow:-

	I	II	III	IV	V	VI	VII
Accused	Date of arrest	Date of Remand	Date of Expiry of 90 days	Date of expiry of Extension period granted for 45 days	Date of expiry of Extension period granted for 30 days	No. of days in custody after the Expiry of 90 days till this date i.e 13.03.2026	No. of days in custody after quashing of the Order of Approval of KCOCA till this date i.e 13.03.2026
Jagadish @ Jagga A-1	25.08.2025	26.08.2025	23.11.2025	07.01.2026	06.02.2026	110 days	84 days
Kiran A-2	16.07.2025	17.07.2025	14.10.2025	28.11.2025	28.12.2025	150 days	84 days
Vimal Raju A-3	16.07.2025	17.07.2025	14.10.2025	28.11.2025	28.12.2025	150 days	84 days
Madan R A-7	16.07.2025	17.07.2025	14.10.2025	28.11.2025	28.12.2025	150 days	84 days

10. The application filed by the Petitioners/Accused Nos.1, 2, 3 and 7 under Section 187(3) of BNSS before the Court of XLII ACJM, Bengaluru, came to be rejected observing that the period for completion of investigation was extended by judicial order at a point of time when the Order of Approval dated 12.08.2025 invoking the provisions of KCOCA was in force. Accordingly, it was held



that the setting aside of the Order of Approval for invoking the provisions of KCOCA was neither anticipated nor foreseen and therefore, it cannot be held that there was any default on the part of Prosecution to file the charge-sheet.

11. It was also held that the order extending the period to complete investigation cannot be curtailed by mere setting aside of the Order of Approval of KCOCA. It is further observed that the order passed in W.P No.31304/2025 on 19.12.2025 setting aside the Order of Approval for invocation of KCOCA would not vitiate the order of extension of period of investigation.

12. It was observed that immediately after the order of this Court on 19.12.2025, an application was filed by the Petitioners/Accused Nos.1, 2, 3 and 7 at 12.00 p.m. on 22.12.2025 seeking grant of default bail, while the preliminary charge-sheet came to be filed at 5.15 p.m. on the same day, i.e. on 22.12.2025.



13. It was held that where the application and charge-sheet were filed on the same day, the right of accused to claim default bail stood extinguished by filing of charge-sheet.

14. The said order came to be challenged jointly by the Petitioners/Accused Nos.1, 2, 3 and 7 herein in Crl.R.P. No.676/2025. The Revisional Court affirmed the finding by the Special Court holding that, as the order extending the time to complete investigation passed by the Special Court not having been challenged was unaffected by the order of this Court dated 19.12.2025 quashing the Order of Approval invoking KCOCA.

15. The Revisional Court also held that, in the event of application for default bail and Final Report were filed on the same day, the Court is required to apply its mind as regards the assertion of indefeasible right as having accrued in favour of the accused.



16. The Revisional Court, applying the law laid down by the Division Bench of High Court of Judicature at Bombay in ***Dinesh Ganesh Indre and Others v. The State of Maharashtra***¹ has rejected the contention of the petitioners and affirmed the order passed by the Special Court.

17. Heard Sri Sandesh Chouta, learned Senior Counsel and Sri Aruna Shyam, learned Senior Counsel appearing on behalf of petitioners and Sri B.N.Jagadeesha, learned Special Public Prosecutor appearing on behalf of respondent State.

18. It is to be noticed that the period for completion of investigation when the accused is in custody, if exceeds ninety days, where the offence is punishable with death, imprisonment for life or imprisonment for the term of not less than ten years, would entitle the accused for default

¹ (2024) SCC OnLine Bom 940



bail. This is made out on a reading of *Proviso (a)(i)* to Section 167(2) of Cr.P.C. [187(3) of BNSS].

19. In the case of offence under KCOCA, there would be modification of the provisions of the Code in light of the stipulation in Section 22 of KCOCA, wherein, an additional period of ninety days is provided up to which the Special Court could extend the period to complete the investigation.

20. Admittedly, as regards the Petitioners/Accused Nos.1, 2, 3 and 7, the period of ninety days in custody has been completed as per Column No. III in the Table supra. It is also not in dispute that in light of applicability of provisions of KCOCA, the Special Court has extended the custody beyond the period of ninety days as is evidenced from the Table.

21. The Special Court had, by its order dated 28.11.2025 permitted the Investigating Agency to file the Final Report by granting further period of thirty days. As



on 28.11.2025, the Petitioners/Accused Nos.2, 3 and 7 had completed 135 days of custody. While as regards Petitioner/Accused No.1 by order dated 07.01.2026 period to investigate was extended and as on such date the Petitioner/Accused No.1 had completed 135 days.

22. The order of this Court setting aside the administrative approval granted for invoking of provisions of KCOCA as per the order in W.P.No.31304/2025 was passed in 19.12.2025.

23. The consequence of setting aside of the order granting approval for invocation of KCOCA would be that the Petitioners/Accused Nos.1, 2, 3 and 7 are now governed by the Provisions of Section 167(2) of Cr.P.C. [187(3) of BNSS]. The order came to be passed on 19.12.2025 and the Petitioners/Accused Nos.1, 2, 3 and 7 initially moved default bail application on that day but it was transmitted to the Court of XLII ACJM due to lack of jurisdiction as the provisions of KCOCA was set aside.



Accordingly, the Petitioners/Accused Nos.1, 2, 3 and 7 sought default bail before the Special Court on 22.12.2025 at 12.00 pm, by way of application under Section 187(3) of BNSS.

24. It is not in dispute that the preliminary charge-sheet itself came to be filed only at 5.15 p.m. on the said day, i.e. on 22.12.2025.

25. It is a settled position of law that the right to claim default bail when in custody would be ninety days in terms of *Proviso (a)(i)* to Section 167(2) of Cr.P.C. In the peculiar facts of the present case, as time was extended by virtue of *Proviso* to Section 22(2) of KCOCA, it could be construed that the Police had the power to file charge-sheet within the extended period as ordered by the Court. Clearly, the order setting aside approval granted being a jurisdictional issue, such order would have the effect of negating the applicability of the extended time beyond 90 days as provided under *Proviso (a)* to 167(2) of Cr.P.C. If



that were to be so the right to claim default bail immediately accrued. It could then be construed that the period of extended time to file the charge-sheet could be limited to the day on which order was passed in W.P.No.31304/2025 i.e on 19.12.2025 and the right to seek default bail would arise on the following day.

26. Accordingly, the order in said Writ Petition was pronounced on 19.12.2025 and the right of the petitioners to claim default bail accrued on 20.12.2025.

27. It is a settled position of law that once an application for default bail is filed, if, as on such date and instant when petitioners assert their right, if charge-sheet is not filed, the indefeasible right of petitioners is required to be upheld.

28. The Police having filed the preliminary charge-sheet at 5.15 p.m., on 22.12.2025 have contended that, though an application claiming default bail was filed by the petitioners at 12.00 p.m. on 22.12.2025, the right to



default bail would not arise, in light of the charge-sheet being filed on the same day.

29. Such factual situation is precisely dealt with by the Apex Court in the following decisions:-

(i) ***M. Ravindran v. Intelligence Officer, Directorate of Revenue Intelligence***² at para-24, which is extracted hereinbelow:-

"24. In the present case, admittedly the appellant accused had exercised his option to obtain bail by filing the application at 10.30 a.m. on the 181st day of his arrest i.e. immediately after the court opened, on 1-2-2019. It is not in dispute that the Public Prosecutor had not filed any application seeking extension of time to investigate into the crime prior to 31-1-2019 or prior to 10.30 a.m. on 1-2-2019. The Public Prosecutor participated in the arguments on the bail application till 4.25 p.m. on the day it was filed. It was only thereafter that the additional complaint came to be lodged against the appellant. Therefore, applying the aforementioned principles, the appellant-accused was deemed to have availed of his indefeasible right to bail, the

² (2021) 2 SCC 485



moment he filed an application for being released on bail and offered to abide by the terms and conditions of the bail order i.e. at 10.30 a.m. on 1-2-2019. He was entitled to be released on bail notwithstanding the subsequent filing of an additional complaint."

(ii) ***Enforcement Directorate, Government of India v. Kapil Wadhawan and Another***³ at para-61, which is extracted hereinbelow:-

*"61. Since there exists vacuum in the application and details of Section 167 CrPC, we have opted for an interpretation which advances the cause of personal liberty. The accused herein were remanded on 14-5-2020 and as such, the charge-sheet ought to have been filed on or before 12-7-2020 (i.e. the sixtieth day). But the same was filed, only on 13-7-2020 which was the 61st day of their custody. Therefore, the right to default bail accrued to the accused persons on 13-7-2020 at 12.00 a.m., midnight, onwards. On that very day, the accused filed their default bail applications at 8.53 a.m. ED filed the charge-sheet, later in the day, at 11.15 a.m. Thus, the default bail applications were filed well before the charge-sheet. In Ravindran*⁴

³ (2024) 7 SCC 147

⁴ *M. Ravindran v. Revenue Intelligence Directorate*, (2021) 2 SCC 485 : (2021) 1 SCC (Cri) 876



and Bikramjit⁵ ,which followed the Constitution Bench in Sanjay Dutt⁶ it was rightly held that if the accused persons avail their indefeasible right to default bail before the charge-sheet/final report is filed, then such right would not stand frustrated or extinguished by any such subsequent filing."

30. Though, the observations of the Apex Court in ***Kapil Wadhawan's case (supra)*** are stated to be in the context of a reference and it is contended that observations made are apart from answer to the issue of reference which cannot be relied upon, however, we find that the observations reiterate what the Apex Court had stated in ***M. Ravindran's case(supra)***.

31. Accordingly, the right to default bail having accrued even on a reasonable interpretation on 20.12.2025 and the petitioners having exercised their right by 12.00 p.m. on 22.12.2025 were entitled to be released on bail. The filing of the charge-sheet at 5.15 p.m. on 22.12.2025, which is later in point of time could not defeat

⁵ *Bikramjit Singh v. State of Punjab*, (2020) 10 SCC 616 : (2021) 1 SCC (Cri) 85

⁶ *Sanjay Dutt v. State*, (1994) 5 SCC 410 : 1994 SCC (Cri) 1433



the indefeasible right accrued to the petitioners to be released on bail.

32. The respondent State has contended that where the application seeking default bail and the charge-sheet are filed on the same day, then notwithstanding that the application seeking default bail is filed prior in point of time, both, the application seeking default bail and the charge-sheet must be considered and a composite order is to be passed.

33. Reliance is placed on the decision of Division Bench of this Court in ***Mohammed Jabir v. National investigation Agency, represented by SPP High Court Building***⁷.

34. It must be noticed that the facts in the case of ***Mohammed Jabir (supra)*** was that, where the proceedings were pending under the Unlawful Activities (Prevention) Act, 1967 [UAPA] and the permission for

⁷ (2024) SCC OnLine Kar 28



extension of time to file the charge-sheet was sought and after such request, on the same day, the application for default bail was filed, the Court was called upon to pass orders as regards the aspect of default bail. The Court after referring to various authorities was of the opinion that the application seeking extension of remand and application seeking default bail had to be decided together.

35. However, where the maximum time stipulated either under Cr.P.C. or as extended by virtue of provision of Special Enactment has exhausted itself, the question of continuance of custody while seeking extension of time to file the charge-sheet does not arise.

36. Where the maximum period provided under Section 167(2) of Cr.P.C. or as extended by virtue of the Special Enactment has spent itself and where application is filed seeking default bail, the question of passing any order extending custody does not arise. In the present



case, by virtue of the Order of Approval dated 12.08.2025 invoking the provisions of KCOCA having been set aside, the only time limit available for the completion of investigation was ninety days in terms of *Proviso (a)(i)* to Section 167(2) of Cr.P.C. If that were to be so, as discussed supra, the time for filing chargesheet would stand reduced to 90 days and on the day next of the order of setting aside approval to invoke KCOCA, the right to default bail could be asserted. In the present case the application for default bail is filed at an earlier point of time, the question of considering the charge-sheet filed at a later point of time does not arise. It is clearly laid down by the Apex Court that after lapse of the maximum time available for filing of charge-sheet when accused is in custody and the application for default bail is filed, the filing of charge-sheet subsequently even at a subsequent point of time on the same day cannot be considered.

37. It is also to be noticed that the validity of the orders of extension of time to file the charge-sheet passed



by the Special Court extending the time beyond the maximum period of ninety days provided for under *Proviso (a)(i)* to Section 167(2) of Cr.P.C., by virtue of applicability of further extension due to special provisions of KCOCA would not stand, once the applicability of special provisions has been set aside.

38. As in the present case, once the Court has set aside the Order of Approval invoking the provisions of KCOCA by its order passed on 19.12.2025 in W.P.No.31304/2025, the maximum period of retaining the accused in the custody would be in terms of *Proviso (a)(i)* to Section 167(2) of Cr.P.C., i.e. for ninety days.

39. It must be noticed that the curtailment of liberty of an individual is only as per the procedure prescribed under law, which is also a Fundamental Right traceable to Article 21 of the Constitution of India. The law, by virtue of which, liberty is sought to be infringed would be Section 167(2) of Cr.P.C., which provides the



maximum period of ninety days to complete the investigation in case of 'Class of Offences' referred to in Section 167(2) of Cr.P.C. Any order permitting continuance of detention beyond the said period of ninety days not being sanctioned under law would amount to violation of Fundamental Right under Article 21 of the Constitution of India. The above view is reflected in the observations of Apex Court in case of **Uday Mohanlal Acharya v. State of Maharashtra**⁸ and relevant paragraph is extracted herein below:-

"13. When the law provides that the Magistrate could authorise the detention of the accused in custody up to a maximum period as indicated in the proviso to sub-section (2) of Section 167, any further detention beyond the period without filing of a challan by the investigating agency would be a subterfuge and would not be in accordance with law and in conformity with the provisions of the Criminal Procedure Code, and as such, could be violative of Article 21 of the Constitution."

⁸ (2001) 5 SCC 453



40. In such context, though an order for extension of time to complete the investigation beyond the period of ninety days was permissible when KCOCA was invoked, such order would however turn to be eclipsed, once the applicability of KCOCA is set aside, though subsequently.

41. The order of the Court made at a point of time when KCOCA was applicable would turn to be an order impermissible in law on the day of approval of invocation of KCOCA is set aside by the Court. The order of extension loses its legal basis on 19.12.2025. The order for extension from such date becomes inoperable as not being sanctioned in law. Any detention after 19.12.2025, which does not have the backing of a statutory law, would be violation of the constitutional right under Article 21 of the Constitution of India, of the accused.

42. The contention that the accused had themselves contributed to the delay in completion of investigation by filing multiple petitions and accordingly, contributing to



delay in investigation is a contention that requires rejection. The concept of default bail is contained in *Proviso (a)* to Section 167(2) of Cr.P.C. The embargo imposed is as regards authorisation of detention for a total period not exceeding ninety days, when investigation relates to offence punishable with death, imprisonment for life or imprisonment for term of not less than ten years as per *Proviso (a)(i)* to Section 167(2) of Cr.P.C, and sixty days in cases as stipulated in *Proviso (a)(ii)* to Section 167(2) of Cr.P.C.

43. Such statutory embargo does not provide for extension of period fixed. In the absence of power conferred to the Court to extend such period, the Court cannot transgress the legislative mandate.

44. It is by judicial interpretation the Courts have further held that the right to claim to be released on default bail on expiry of the time fixed to be an indefeasible right. The Courts have further held that, once



such right is exercised and charge-sheet is not filed, the right to default bail follows.

45. Accordingly, the request of respondent State to consider the genuine difficulties in adhering to the timeline does not permit consideration. The time limit fixed is absolute.

46. It must be noticed that both, the Special Court as well as the Revisional Court had rejected the application of petitioners seeking to be enlarged on default bail on the primary ground that the order for extension of time to complete the investigation were passed during the subsistence of provisions of KCOCA that were extended. It was observed that the subsequent setting aside of the Order of Approval would not have the effect of rendering the orders of extension of time illegal.

47. As observed above, the orders of extension of time cannot have life beyond 19.12.2025 when the applicability of Order of Approval of KCOCA was set aside.



The orders of extension do not have any legal basis to stand after such order.

48. Sri B.N.Jagadeesha, learned Special Public Prosecutor appearing on behalf of respondent State had sought for deferring of passing of the order till the Apex Court finally dispose of SLP (Crl.) No. 57/2026.

49. It was submitted that setting aside of the order of approval of applicability of provisions of KCOCA was yet to be decided finally by the Apex Court and that leave having been granted, the matter is pending before the Apex Court in Crl.A 429/2026.

50. It is further stated that necessary motion has been moved before the Apex Court to clarify the interim order earlier granted.

51. It is to be noticed that the Apex Court by its interim order dated 20.01.2026, while considering challenge to the order of this court setting aside the order



of approval for invocation of KCOCA, had observed at para 3 as follows:

"3. Meanwhile, the impugned judgment and order of the High Court shall not be relied upon as a binding precedent."

52. Learned Senior Counsel Sri Sandesh Chouta and Sri Aruna Shyam, learned Senior Counsel appearing on behalf of the petitioners would submit that the Apex Court not having stayed the order of this court in W.P.No.31304/2025, there was no impediment for this court to proceed further.

53. It is further submitted that the observation of the Apex Court was only that the order passed by this court in W.P.No.31304/2025 would not be relied upon as a binding precedent. It is submitted that though the order of the High Court could not be cited as precedent in other matters, insofar as parties to the *lis*, it would holds good.



54. This court has concluded hearing of the matter on 03.03.2026. Thereafter, the matter was adjourned on subsequent occasions including on 10.03.2026 and 12.03.2026 at the request of the respondent. At this juncture, continuing to adjourn the matter in the absence of any order of stay of the order of this court would only result in prolonging incarceration of the petitioners.

55. Needless to state, in the event of any adverse order being passed by the Apex Court regarding applicability of KCOCA, consequences would follow.

56. Accordingly, the court proceeds to pass orders while imposing conditions in the event Apex Court were to pass adverse order reversing the order passed in W.P.No.31304/2025.

57. Accordingly, in light of the above, the petitions are **allowed**. The order dated 26.12.2025 passed by the Court of XLII ACJM, Bengaluru, in Crime No.73/2025 as well as the order dated 02.02.2026 passed in Crl.R.P.



No.676/2025 by the Court of LXXXI Addl. City Civil and Sessions Judge, Bengaluru are set aside and the application dated 22.12.2025 filed by the petitioners under Section 187(3) of BNSS are allowed and the petitioners, viz., accused Nos.1, 2, 3, and 7 are directed to be released on bail subject to the following conditions:-

- (a) The Petitioners shall execute a personal bond of Rs.1,00,000/- (Rupees One Lakh only) with one surety for the likesum to the satisfaction of the concerned court.
- (b) The Petitioners shall fully co-operate for the expeditious disposal of the trial.
- (c) The Petitioners shall not tamper with evidence, influence in any manner any witness.
- (d) In the event of change of address, the Petitioners to inform the same to the concerned SHO.
- (e) The Petitioners shall not leave the State without the permission of the jurisdictional court.



(f) Any violation of the aforementioned conditions by the Petitioners, shall result in cancellation of bail.

Any observation made herein shall not be taken as an expression of opinion on the merits of the case.

58. It is however, made clear that this order granting default bail on account of the quashing of KCOCA approval in W.P No. 31304/2025 dated 19.12.2025, shall remain subject to any orders passed in the proceedings pending before the Hon'ble Supreme Court of India in SLP (Crl.) No. 57/2026 against the said quashing order. In the event the Hon'ble Supreme Court allows the petition, then the Petitioners shall abide by the legal consequences flowing from such order passed.

SD/-
(S SUNIL DUTT YADAV)
JUDGE

VGR/NP