

Default bail

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In news— Recently, the lawyer and activist Sudha Bharadwaj was given the default bail, but the co-accused was denied the same relief.

What is default bail?

- Also known as statutory bail, **this is a right to bail that accrues when the police fail to complete investigation within a specified period** in respect of a person in judicial custody.
- This is **enshrined in Section 167(2) of the Code of Criminal Procedure(CrPC)** where it is not possible for the police to complete an investigation in 24 hours, the **police produce the suspect in court and seek orders for either police or judicial custody.**
- This section concerns the total period up to which a person may be remanded in custody prior to filing of charge sheet.
- **For most offenses, the police have 60 days to complete the investigation** and file a final report before the court.
- However, **where the offense attracts death sentence or life imprisonment**, or a jail term of not less than 10 years, the **period available is 90 days.**
- At the end of this period, if the investigation is not complete, the court shall release the person “if he is prepared to and does furnish bail”.

Principles related to statutory bail-

- It is a right, regardless of the nature of the crime.
- The stipulated **period** within which the charge sheet has to be filed **begins from the day the accused is remanded for the first time.**
- **It includes days undergone in both police and judicial**

custody, but **not** days spent **in house-arrest**.

- A **requirement for the grant of statutory bail** is that the right should be claimed by the person in custody.
- If the charge sheet is not filed within the stipulated period, but there is no application for bail under Section 167(2), there is no automatic bail.
- In general, the right to bail on the investigation agency's default is considered an 'indefeasible right', but it should be availed of at the appropriate time.

Its applicability on special laws-

- In the **Narcotic Drugs and Psychotropic Substances Act**, **the period is 180 days**.
- However, **in cases involving substances in commercial quantity**, the period may be **extended up to one year**.
- This extension beyond 180 days **can be granted only on a report by the Public Prosecutor** indicating the progress made in the investigation and giving reasons to keep the accused in continued detention.
- In the **Unlawful Activities (Prevention) Act**, the default limit is **90 days** only.
- The court may grant an extension of another 90 days, if it is satisfied with a report by the Public Prosecutor showing the progress made in the investigation and giving reasons to keep the accused in further custody.