

GAHC030003522024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./57/2024

Yogesh Sarda
House No. 21, Bye-Lane No. 9, Lalchitnagar, Guwahati, Assam

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. T Lalnunsiamia

Advocate for the Respondent : P.P./Addl.PP, Mizoram (Assisted by Mr. Lalfakawma)

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
O R D E R

31.07.2024

1. Heard Mr. M. Phukan, learned counsel appearing for the accused petitioner. Also heard Mr. N. Kaushik, learned Senior counsel representing the informant as well as Ms. Linda Fambawl, learned P.P., Mizoram appearing for the State respondent.

2. By filing this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Yogesh Sarda**, has prayed for grant of bail in connection with **Aizawl P.S. Case No.96/2024** under Sections **408/467/468/34 of IPC**.

3. The brief fact of the case is that an FIR has been lodged at Aizwal police by one Ankit Bagree, an authorized signatory of Mahindra and Mahindra Financial Services Ltd.(hereinafter referred to as company) stating *inter alia* that during routine verification conducted by the company, the area business manager Mr. Zakir Habibur Hussain submitted B-Extracts of registration certificate for several vehicles upon instructions. Purportedly, the B-Extracts displayed the same QR code but different numbers suggesting forgery. The informant alleged that Mr. Zakir Habibur Hussain along with some car dealers, borrowers, employees and unknown others cheated the company by fabricating RTO records to secure loans. The informant's company has identified nine cases and initiated in-house investigation on the overall live portfolio done under Zakir Hussain. The FIR further reveals that Mr. Zakir Hussain along with his subordinates Mr. Joseph Vel Ralte and Mr. Eden Thara as the prime suspects in the case.

4. The case of the petitioner is that he was arrested on the statement of the prime accused Zakir Hussain. The only allegation against the petitioner is that he had purportedly received some money from the prime accused of this case. Though the search operation was conducted in the residence of the petitioner but no any incriminating material was recovered from his residence.

5. A plain reading of the FIR reveals that the allegations primarily are not limited to forgery but the use of forged seals and documents of the company, impersonation, criminal breach of trust and the opening of unauthorized bank accounts.

6. It was urged by the learned counsel for the petitioner that the accused petitioner has been languishing in judicial custody for last 94 days. During investigation involvement of 20 accused persons has been established and charge sheet has been laid on 10.07.2024 but it is written in the charge-sheet that more

such complaints would be received by Mizoram police from innocent persons whose documents were used by the accused for preparing loan files. And investigation is still under progress as such part charge-sheet has been submitted. Hence, petitioner is entitled for default bail.

7. It is also the submission of learned counsel for the petitioner that there is no any criminal offence as alleged, just because they are liable to repay certain amount of money, this instant case is a clear case of repayment of loan for which the complainant ought to have approached a civil court for recovery of such money.

8. Learned counsel for the petitioner has also contended that the only allegation against the petitioner is the transfer of money from fraud fund and whether such transfer is reflected of crime or not has to be considered at the time of trial and cannot be taken into consideration at this juncture. In a criminal trial a person is always presumed innocent until proven guilty. In view of the presumption of innocence and co-operation by the petitioner to the police in further investigation of the case, bail should be granted to the petitioner.

9. It is further submitted by the learned counsel for the petitioner that the petitioner joined the company as an Employee on 01.12.2010, serving in Guwahati and at Siliguri for a shorter period. He has been under suspension since May, 2022 and was terminated in January, 2023. The petitioner was holding the post of Senior Manager, Accounts and was responsible for approving and disbursing files after issuing the Delivery Order (DO). According to company policy, loan proposals are first approved by the Branch Accountant, then by the Territory Accountant, before the DO is issued. Once the DO is issued, the file is transferred to the petitioner for disbursement. However, since 2019-20, he had delegated his responsibilities to one Shivaji Sengupta. It is unlikely that someone in his position would engage in such a

conspiracy to defraud the company.

10. By referring the judgment of ***Ritu Chabaria vs Union of India and others*** reported in ***(2023) SCC online SC 502***, the learned counsel for the petitioner has pointed out that in the said case Hon'ble Supreme Court has held that incomplete charge-sheet cannot be used to deny the rights of the accused to 'default bail' under Section 167 (2) of Cr.P.C. and Article 21 of the Constitution of India.

11. The further submission of learned counsel for the petitioner is that the purpose of bail is to ensure the presence of the accused at the time of trial. This object is thus neither punitive nor preventive. Furthermore, a person who has not been convicted should only be kept in custody if there are reason to believe that they might flee from justice or tamper with the evidence or threaten the witnesses. In the instant case, the question of tampering of the evidence does not arise because all the evidence available is documentary in nature and in the custody of the investigating agency.

The learned counsel has also relied on some other case laws-

- (i) Arup Deka vs state of Assam in BA 2258/2023
- (ii) Dataram vs State of Uttar Pradesh and another (2018) 3 SCC 22.
- (iii) Nira Radia vs Dheeraj Singh and another reported in (2006) 9 SCC 760.
- (iv) Runu Ghosh vs State (CBI) 1996 SCC online Delhi 620.
- (v) Nikesh Tarachand Shah vs Union of India and another (2018)11 SCC 1.

12. Ms. Linda Fambawl, learned Public Prosecutor, Mizoram submits that charge-

sheet has been laid in connection with this case as such the petitioner may approach before the trial court seeking regular bail.

13. The learned counsel for the informant has submitted that the accused persons including the accused petitioner have created fictitious KYC records by creating false and forged documents. The accused petitioner was employed in the informant company as area Branch Manager and was later transferred to the regional office of the company. The accused petitioner along with other co-accused acted in connivance with each other, have committed the crime which involves the loss of crores of rupees to the company.

14. The last limb of argument of the learned counsel for the informant is that in connection with this case, charge-sheet has already been laid. Three/ four FIRs have been lodged in connection with the alleged fraud in the company. Multiple investigations involving many conspirators. In connection with the alleged offence in which the petitioner has prayed for default bail i.e. Aizwal PS Case No. 96/2024 charge-sheet has been laid. But in some other cases on different FIRs the investigation is still going on. As the charge-sheet has been submitted, the petitioner cannot claim default bail. The right of the petitioner is to seek regular bail before the trial court.

15. By relying on the judgment of ***Y.S. Jaganmohan Reddy vs CBI (2013) 7 SCC 439***, the learned counsel for the informant has submitted that this is an economic offence and Hon'ble Supreme Court in the said case pointed out that economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence has been deep rooted conspiracy and involving huge loss of public funds need to be viewed seriously and considered as grave offences effecting the economy of the country as a whole and thereby posing serious threat to the financial loss of the country.

16. Though the learned counsel for the petitioner raised objection by stating that the offence committed by the petitioner cannot be stated to be economic offence as because the financial loss is not caused to the state exchequer but to the private financial institution. The instant case is a case of financial irregularities alleged to be committed by the accused petitioner along with other co-accused.

In support of his submission, the learned counsel for the informant has placed reliance on the following case laws:

- (i) (1987) 2 SCC 364 (State of Gujrat vs Mohan Lal Jitamalji Porwal and another).
- (ii) (2023) SCC online SC 1486 (Tarun Kr. Vs Assistant Directorate of Enforcement).
- (iii) (2017) 5 SCC 406 (Virupakshappa Gouda and another vs. State of Karnataka and another).
- (iv) (2021) 6 SCC 191 (Naveen Singh vs State of Uttar Pradesh).

17. Having heard the submission of learned counsel for the parties the main issue in this case is whether the accused/petitioner would avail the statutory remedy of default bail when the investigation is pending against the other accused or charge-sheet is incomplete!

18. Admittedly, the accused petitioner has been detained in custody for last 94 days. The accused petitioner has filed this application seeking bail under Section 439 Cr.P.C. in connection with Aizwal PS Case No. 96/2024. From the charge-sheet, it reveals that during the investigation, involvement of 20 accused persons has been established and charge-sheet in C & EO PS Case No. 3/2024 containing 182 pages and charge-sheet for Aizwal PS Case No. 96/2024 containing 114 pages have been submitted on 25.06.2024 and 10.07.2024 respectively. Investigation is

still going on and further arrest, seizure may be made as there are other suspects involved in the case. Supplementary charge-sheet would be submitted as and when investigation is completed.

19. It is further stated in the charge-sheet that one more case was registered on the complaint of Dr. Lalneinga on the same subject matter and the case was registered vide Crime and Economic Offences PS Case No. 05/2024 and is under investigation. It is expected that more such complaints would be received by Mizoram police from innocent persons whose documents were used by the accused for preparing fake loan files.

20. In the instant bail application, the main question that falls for consideration is whether the petitioner was entitled to the benefit of statutory right conferred under the proviso II sub Section 2 of Section 167 Cr.P.C. on the ground that the investigation against some of the accused named in the FIR was pending, though the report under Sub Section 2 of Section 173 (charge-sheet) against the present petitioner along with other co-accused was filed within the prescribed time limit. As such whether the accused petitioner is entitled for 'default bail'.

21. For better appreciation of the submission made by the learned counsel for the parties, the relevant part of Section 167(2) and Section 173 are reproduced as under -

“Section 167(2)

The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction :

Provided that –

(a)[the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no

Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding, -

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;].....”

Section 173 Cr.P.C.

“Report of police officer on completion of investigation-

(1) Every investigation under this Chapter shall be completed without unnecessary delay.

1A. *The investigation in relation to an offence under sections [376](#), [376A](#), [376AB](#), [376B](#), [376C](#), [376D](#), [376DA](#), [376DB](#) or [376E](#) of the Indian Penal Code shall be completed within two months¹ from the date on which the information was recorded by the officer in charge of the police station.*

(2)(i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating-

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section [170](#).

(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections [376](#), [376A](#), [376AB](#), [376B](#), [376C](#), [376D](#), [376DA](#), [376DB](#), or [376E](#) of the Indian Penal Code.

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any whom the information relating to the commission of the offence was first given.....”

22. There cannot be any disagreement with the well settled legal position that the right of default bail under Section 167(2) Cr.P.C. is not only a statutory right but is a right that flows from Article 21 of the Constitution of India. It is an indefeasible right, nonetheless it is enforceable only prior to the filing of the charge-sheet and does not survive or remain enforceable on the charge-sheet being filed, if already not availed of. Once, charge-sheet has been filed, the question of grant of bail has to be considered and decided only with reference to the merits of the case under the provisions relating to the grant of bail to the accused after filing of the charge-sheet.

22. The constitution Bench in the case of **Sanjay Dutt vs State through CBI (1994) 5 SCC 410** while considering the provisions of Section 20(4)(bb) of the Terrorist and Disrupted (Prevention) Activities Act, 1987 read with Section 167(2) Cr.P.C. had very pertinently held that -

“48. We have no doubt that the common stance before us of the nature of indefeasible right of the accused to be released on bail by virtue of Section 20(4) (bb) is based on a correct reading of the principle indicated in that decision. The indefeasible right accruing to the accused in such a situation is enforceable only prior to the filing of the challan and it does not survive or remain enforceable on the challan being filed, if already not availed of. Once the challan has been filed, the question of grant of bail has to be considered and decided only with reference to the merits of the case under the provisions relating to grant of bail to an accused after the filing of the challan. The custody of the accused after the challan has been filed is not governed by Section 167 but different provisions of the Code of Criminal Procedure. If that right had accrued to the accused but it remained unenforced till the filing of the challan, then there is no question of its enforcement

thereafter since it is extinguished the moment challan is filed because Section 167 CrPC ceases to apply. The Division Bench also indicated that if there be such an application of the accused for release on bail and also a prayer for extension of time to complete the investigation according to the proviso in Section 20(4)(bb), both of them should be considered together. It is obvious that no bail can be given even in such a case unless the prayer for extension of the period is rejected. In short, the grant of bail in such a situation is also subject to refusal of the prayer for extension of time, if such a prayer is made. If the accused applies for bail under this provision on expiry of the period of 180 days or the extended period, as the case may be, then he has to be released on bail forthwith. The accused, so released on bail may be arrested and committed to custody according to the provisions of the Code of Criminal Procedure. It is settled by Constitution Bench decisions that a petition seeking the writ of habeas corpus on the ground of absence of a valid order of remand or detention of the accused, has to be dismissed, if on the date of return of the rule, the custody or detention is on the basis of a valid order. (See Naranjan Singh Nathawan v. State of Punjab [(1952) 1 SCC 118 : 1952 SCR 395 : AIR 1952 SC 106 Singh v. State of Delhi [1953 SCR 652 : 1952 Cri LJ 656] ; Ram Narayan : AIR 1953 SC 277 Gopalan v. Government of India [(1966) 2 SCR 427 : 1953 Cri LJ 1113] and A.K. : AIR 1966 SC 816 : 1966 Cri LJ 602].)”

23. In **Suresh Kumar Bhikamchand Jain Vs. State of Maharashtra & Anr.** Reported in **(2013) 3 SCC 77**, the appellant accused had sought default bail under Section 167(2) on the ground that though the charge-sheet was filed within the stipulated time, the cognizance was not taken by the court, for want of sanction to prosecute the accused. The court dispelling the claim of the accused held :

“17. In our view, grant of sanction is nowhere contemplated under Section 167 CrPC. What the said section contemplates is the completion of investigation in respect of different types of cases within a stipulated period and the right of an accused to be released on bail on the failure of the investigating authorities to do so. The scheme of the provisions relating to remand of an accused, first during the stage of investigation and, thereafter, after cognizance is taken, indicates that the legislature intended investigation of certain crimes to be completed within 60 days and offences punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, within 90 days. In the event, the investigation is not completed by the investigating authorities, the accused acquires an indefeasible right to be granted bail, if he offers to furnish

bail. Accordingly, if on either the 61st day or the 91st day, an accused makes an application for being released on bail in default of charge-sheet having been filed, the court has no option but to release the accused on bail. The said provision has been considered and interpreted in various cases, such as the ones referred to hereinbefore. Both the decisions in Natabar Parida case [(1975) 2 SCC 220 : 1975 SCC (Cri) 484] and in Sanjay Dutt case [(1994) 5 SCC 410 : 1994 SCC (Cri) 1433] were instances where the charge-sheet was not filed within the period stipulated in Section 167(2) CrPC and an application having been made for grant of bail prior to the filing of the charge-sheet, this Court held that the accused enjoyed an indefeasible right to grant of bail, if such an application was made before the filing of the charge-sheet, but once the charge-sheet was filed, such right came to an end and the accused would be entitled to pray for regular bail on merits.”

24. None of the aforesaid cases detract from the position that once a charge-sheet is filed within a stipulated time, the question of grant of default bail or statutory bail does not arise. As indicated hereinabove, the filing of charge-sheet is sufficient compliance with the provisions of Section 167(2)(a)(ii) in this case. The right which may have accrued to the petitioner, had charge-sheet not been filed, is not attracted to the facts of this case. The scheme of Cr.P.C. is such that once the investigation stage is completed, the court proceeds to the next stage which is the taking of cognizance and trial. An accused has to remain in custody of some court. During the period of investigation the accused is under the custody of the Magistrate before whom he or she is first produced. During that stage under Section 167(2) Cr.P.C. the Magistrate is vested with authority to remand the accused to custody, both police custody or judicial custody for 15 days at a time up to a maximum period of 60 days in cases of offences punishable for less than 10 years and 90 days whether the offences are punishable for over 10 years or even death sentence. In the event, an investigating authority fails to file the charge-sheet within the stipulated period, the accused is entitled to be released on statutory bail. In such a situation, the accused continues to remain in custody of

the Magistrate till such time as cognizance is taken by the court trying the offence, when the said court assumes custody of the accused for purpose of remand during the trial in terms of Section 309 Cr.P.C. The two stages are different but one follows the other so as to maintain continuity of the custody of the accused with the court.

25. Again, in ***Serious Fraud Investigation Office vs. Rahul Modi & Ors., 2022 SCC Online SC 153***, Hon'ble Supreme Court following the case of Suresh Kumar Bhikamchand Jain (supra) observed:

“11. It is clear from the judgment of this Court in Bhikamchand Jain (supra) that filing of a charge-sheet is sufficient compliance with the provisions of Section 167, CrPC and that an accused cannot demand release on default bail under Section 167(2) on the ground that cognizance has not been taken before the expiry of 60 days. The accused continues to be in the custody of the Magistrate till such time cognizance is taken by the court trying the offence, which assumes custody of the accused for the purpose of remand after cognizance is taken. The conclusion of the High Court that the accused cannot be remanded beyond the period of 60 days under Section 167 and that further remand could only be at the post-cognizance stage, is not correct in view of the judgment of this Court in Bhikamchand Jain (supra).”

26. In the instant case, the main contention raised by the learned counsel for the petitioner is that the investigating agency having kept the investigation open in connection with other cases as stated in the charge-sheet as such the ingredient of Section 173 Cr.P.C. could not be said to have been complied with and therefore the charge-sheet under Section 173 could not be said to be a complete charge-sheet. According to the learned counsel for the petitioner, the charge-sheet filed against the accused petitioner and other was a subterfuge or ruse to defeat the indefeasible right of the accused petitioner conferred under Section 167(2) Cr.P.C.

27. In the case of ***K. Veeraswami vs. Union of India and Others, (1991) 3 SCC 655*** has aptly explained the scope of Section 173(2).

“76. The charge-sheet is nothing but a final report of police officer under Section 173(2) of the CrPC. The Section 173(2) provides that on completion of the investigation the police officer investigating into a cognizable offence

shall submit a report. The report must be in the form prescribed by the State Government and stating therein (a) the names of the parties; (b) the nature of the information; (c) the names of the persons who appear to be acquainted with the circumstances of the case; (d) whether any offence appears to have been committed and, if so, by whom (e) whether the accused has been arrested; (f) whether he had been released on his bond and, if so, whether with or without sureties; and (g) whether he has been forwarded in custody under Section 170. As observed by this Court in Satya Narain Musadi v. State of Bihar [(1980) 3 SCC 152 , 157 : 1980 SCC (Cri) 660] that the statutory requirement of the report under Section 173(2) would be complied with if the various details prescribed therein are included in the report. This report is an intimation to the magistrate that upon investigation into a cognizable offence the Investigating Officer has been able to procure sufficient evidence for the court to inquire into the offence and the necessary information is being sent to the court. In fact, the report under Section 173(2) purports to be an opinion of the Investigating Officer that as far as he is concerned he has been able to procure sufficient material for the trial of the accused by the court. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175(5). Nothing more need be stated in the report of the Investigating Officer. It is also not necessary that all the details of the offence must be stated. The details of the offence are required to be proved to bring home the guilt to the accused at a later stage i.e. in the course of the trial of the case by adducing acceptable evidence.”

28. In view of the above settled legal position, there remains no shadow of doubt that the statutory requirement of the report under Section 173 (2) would be complied with if the various details prescribed therein are included in the report. The report under Section 173 is intimation to the court that upon investigation into the cognizable offence, the investigating officer has been able to procure sufficient evidence for the court to inquire into the offence and the necessary information is being sent to the court. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 173 (5). As settled in the afore-stated case, it is not necessary that all the details of the offence must be stated.

29. The benefit of proviso appended to sub-section (2) of Section 167 of the

Code would be available to the offender only when a charge-sheet is not filed and the investigation is kept pending against him. Once however, a charge-sheet is filed, the said right ceases. It may be noted that the right of the investigating officer to pray for further investigation in terms of subsection (8) of Section 173 is not taken away only because a charge-sheet is filed under subsection (2) thereof against the accused. Though ordinarily all documents relied upon by the prosecution should accompany the charge-sheet, nonetheless for some reasons, if all the documents are not filed along with the charge-sheet, that reason by itself would not invalidate or vitiate the charge-sheet. It is also well settled that the court takes cognizance of the offence and not the offender. Once from the material produced along with the charge-sheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation against the other accused or for production of some documents not available at the time of filing of charge-sheet would neither vitiate the charge-sheet, nor would it entitle the accused to claim right to get default bail on the ground that the charge-sheet was an incomplete charge-sheet or that the charge-sheet was not filed in terms of Section 173(2) of Cr.P.C.

30. In ***Dinesh Dalmia vs CBI*** reported in ***2007 (8) SCC 770***, Hon'ble Supreme Court has elaborately explained the scope of Section 167(2) vis-à-vis Section 173(8) Cr.P.C. The relevant paragraphs are reproduced herein below:

“19. A charge-sheet is a final report within the meaning of subsection (2) of Section 173 of the Code. It is filed so as to enable the court concerned to apply its mind as to whether cognizance of the offence thereupon should be taken or not. The report is ordinarily filed in the form prescribed therefore. One of the requirements for submission of a police report is whether any offence appears to have been committed and, if so, by whom. In some cases, the accused having not been arrested, the investigation against him may not be complete. There may not be sufficient material for arriving at a

decision that absconding accused is also a person by whom the offence appears to have been committed. If the investigating officer finds sufficient evidence even against such an accused who had been absconding, in our opinion, law does not require that filing of the charge-sheet must await the arrest of the accused.

20. Indisputably, the power of the investigating officer to make a prayer for making further investigation in terms of sub-section (8) of Section 173 is not taken away only because a charge-sheet under sub-section (2) thereof has been filed. A further investigation is also permissible even if order of cognizance of offence has been taken by the Magistrate.....21-37.....

38. It is a well-settled principle of interpretation of statute that it is to be read in its entirety. Construction of a statute should be made in a manner so as to give effect to all the provisions thereof. Remand of an accused is contemplated by Parliament at two stages; pre-cognizance and post-cognizance. Even in the same case, depending upon the nature of charge-sheet filed by the investigating officer in terms of Section 173 of the Code, a cognizance may be taken as against the person against whom an offence is said to have been made out and against whom no such offence has been made out even when investigation is pending. So long a charge-sheet is not filed within the meaning of sub-section (2) of Section 173 of the Code, investigation remains pending. It, however, does not preclude an investigating officer, as noticed hereinbefore, to carry on further investigation despite filing of a police report, in terms of subsection (8) of Section 173 of the Code.

39. The statutory scheme does not lead to a conclusion in regard to an investigation leading to filing of final form under sub-section (2) of Section 173 and further investigation contemplated under sub-section (8) thereof. Whereas only when a charge-sheet is not filed and investigation is kept pending, benefit of proviso appended to sub-section (2) of Section 167 of the Code would be available to an offender; once, however, a charge-sheet is filed, the said right ceases. Such a right does not revive only because a further investigation remains pending within the meaning of subsection (8) of Section 173 of the Code."

31. In view of the aforesaid legal proposition, this Court is of the opinion that the charge-sheet having been filed against the accused petitioner within the prescribed time limit. Hence, the accused petitioner is not entitled to claim the statutory right

of default bail under Section 167(2) on the ground that the investigation against some other accused and in some more cases are pending. However, the accused petitioner would be at liberty to approach before the trial court/Jurisdictional Magistrate seeking regular bail and in the event of filing any bail application, the prayer will be considered in accordance with law.

32. Bail application is disposed of accordingly.

JUDGE

Comparing Assistant