

What is Default Bail?

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- About Default Bail:
- The Code of Criminal Procedure (CrPC) provides for three kinds of bail. Section 438 provides for Anticipatory Bail, Section 439 provides for Regular bail whereas Section 167(2) provides for default/statutory bail.
- Default bail, also known as statutory bail, is a type of bail which accrues as a right to an accused detained in custody, when the police fail to or are unable to complete the investigation and file the chargesheet within the time frame stipulated under the law.
- When a person is arrested under any section of any act, there is an obligation on the arresting authority to complete the investigation within a specified time. This period is mandatory, and not obligatory.
- The statutory time frame for completing the investigation of offences under the IPC, and for filing of the charge sheet varies depending on the gravity of the offence.
 - For offences punishable with imprisonment up to 10 years, the investigation must be completed within 60 days of arrest.
 - For offences punishable with death, imprisonment for life, or imprisonment for more than 10 years, the investigation must be completed within 90 days of arrest (excluding investigation/arrests made under

special statutes).

- Therefore, when a person is arrested and the police is not able to complete investigation within the specified period, it is their default, and the arrested person cannot be kept behind bars beyond this period. This entitlement is called default bail.
 - This is enshrined in Section 167(2) of the CrPC, where it is not possible for the police to complete an investigation in time.
 - Principles:
 - 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 spent in both police and judicial custody, but not days spent in house-arrest.
 - For an accused to be entitled to default bail, the accused must have been in custody during the entire statutory period for the investigation, and the accused must not have been released on bail during that period.
 - 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.
 - Once the accused files an application for bail under Section 167(2), it is considered that he/she has enforced the right to be released on default bail.
 - This right only comes into place after the stipulated time limit for investigation has expired.
 - If the accused fails to apply for default bail after the investigation time period has expired and the investigating agency files a charge-sheet or seeks more time before the accused makes such an application for default bail, then the right to default bail is no longer applicable. The Magistrate can then grant further time for the completion of the investigation.
 - However, the accused may still be released on bail under other legal provisions of the Code.
 - The default bail is not liable to be cancelled even after the completion of the investigation and the submission of the charge sheet. The default bail can be cancelled only on the grounds and considerations on which a regular bail can be cancelled.
 - Default Bail as Fundamental Right:
 - The Supreme Court, while hearing an appeal regarding default bail, said that default bail under the first proviso of Section 167(2) of the CrPC. is a fundamental right and not merely a statutory right as it is, a procedure established by law under Article 21 of the Constitution.
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Q1) What is a Charge-sheet?

Charge sheet refers to a formal police record showing the names of each person brought into custody, the nature of the accusations, and the identity of the accusers. A charge sheet is distinct from the First Information Report (FIR), which is the core document that describes a crime that has been committed. It usually refers to one or more FIRs and charges an individual or organization for (some or all of) the crimes specified in those FIR(s). Once the charge sheet has been submitted to a court of law, prosecution proceedings against the accused begin in the judicial

system.

Source: [Default Bail Can't Be Claimed On Ground That Investigation Is Pending Against Other Accused: Supreme Court Sets Aside Bail To Wadhwas In DHFL Case](https://vajiramandravi.com/current-affairs/default-bail/)

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