

CRM-M-29273 of 2025

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

CRM-M-29273 of 2025

Date of decision: 01.10.2025

Gurcharan Singh and another

.....Petitioners

Versus

State of U.T. Chandigarh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: - Ms. Tanu Bedi, Advocate,  
for the petitioners.

Mr. Alankrit Bhardwaj, APP, U.T., Chandigarh.

Mr. Charanpreet Singh, Advocate,  
for respondent No.3.

**NAMIT KUMAR, J.**

1. Pursuant to order dated 26.05.2025, status report filed by the trial Court is taken on record. Reply on behalf of respondent No.3 filed in the registry is also taken on record.

2. This petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking directions to the trial Court for expeditious disposal of criminal case No.3342 of 2014 arising out of FIR No.733 dated 19.12.2013 registered under Sections 406 and 498-A IPC at Police Station Sector 34, Chandigarh.

3. Brief facts of the case are that marriage between petitioner No.2-Karanvir Singh Gosal and respondent No.3-Sameer Gill was solemnised on 24.12.2000. However, due to matrimonial dispute

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between the parties, on the basis of a complaint filed by respondent No.3, FIR No.733 dated 19.12.2013 under Sections 406 and 498-A IPC was registered against the petitioners at Police Station 34, Chandigarh. Petitioners were discharged by the trial Court on 15.06.2017. However, in revision, the order dated 15.06.2017, passed by the trial Court was set aside by Revisional Court and the matter was remanded to the trial Court with a direction to reconsider the material/evidence on record afresh vide order dated 20.03.2023 passed in Criminal Revision No.206 of 2017. Thereafter, petitioners were chargesheeted under Sections 406 and 498-A IPC by the trial Court vide order dated 08.06.2023. On filing of supplementary report under Section 173 Cr.P.C., additional charge under Section 323 IPC was also framed against the petitioners vide order dated 29.07.2024.

4. Learned counsel for the petitioners contended that aforementioned case is pending for about 12 years. She further submitted that in the present case no effective proceedings are being conducted and the same is being intentionally and deliberately delayed by respondent No.3. She further submits that petitioner No.1-Gurcharan Singh is over 90 years old and due to pendency of the present case he is suffering from physical and mental health issues and appropriate directions be issued for concluding the trial in a time-bound manner. In support of her contentions, learned counsel has placed reliance upon the judgments of the Hon'ble Supreme Court in ***Abdul Rehman Antulay v. R.S. Nayak (1992) 1 SCC 225; P. Ramachandra***

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***Rao v. State of Karnataka, (2002) 4 SCC 578 and Hussainara Khatoon and others v. State of Bihar, (1980) 1 SCC 93.***

5. Per contra, learned counsel for U.T. Chandigarh, assisted by learned counsel for respondent No.3-complainant has fervently and vehemently opposed the prayer made by the petitioners and submitted that the purpose of filing the present petition is just to conclude the trial in a hurried manner so that material witnesses and corroborating material evidence is not produced before the trial Court.

6. I have heard learned counsel for the parties and perused the record.

7. While issuing notice of motion on 26.05.2025, status report from the trial Court was sought, which reads as under: -

*“The challan in the present case bearing FIR no.733 of 19.12.2013, under Sections 406, 498-A IPC, Police Station Sector 34, Chandigarh, was filed before the trial court on 29.11.2014 against accused persons namely Karanvir Singh, Gurcharan Singh and Gurbans Kaur. During the proceedings of this case, accused Gurbans Kaur died and proceedings against her was abated vide order dated 29.03.2016 passed by learned Predecessor.*

*Further, vide order dated 15.06.2017 passed by the learned Predecessor of this Court, the accused persons namely Karanvir Singh & Gurcharan Singh were discharged in this case. But however, vide judgment dated 20.03.2023 passed in CRR No.278 of 25.09.2017, by learned Appellate Court, the order dated 15.06.2017 passed by learned trial Court with regard to discharge of accused namely Karanvir Singh & Gurcharan Singh was*

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*set aside and the matter was remanded back to the learned trial Court with direction to reconsider the material/evidence on record afresh.*

*Thereafter, the present accused persons namely, Karanvir Singh Gosal & Gurcharan Singh Gosal were chargesheeted vide order dated 08.06.2023 and case was fixed for prosecution evidence. However, supplementary challan was filed on 07.05.2024 and the accused persons were again chargesheeted under Sections 323, 406, 498-A IPC vide order dated 29.07.2024. Ld. APP for the State & ld.defence counsel gave no objection if statement of PW1 & PW2 earlier recorded in the trial be read as evidence after addition of charge. Till dated PW1 Constable Savita Bai No.4497, PW2 SI Jagroop Singh No.1450 have been examined completely, whereas PW3 ASI Satnam Chand No.3172, PW4 SI Sudhir Kumar and PW5 Sameer Gill have been partly examined in chief. Further examination in chief of PW3 & PW4 have been deferred for want of case property.*

*During the course of examination in chief of PW5 Sameer Gill, her further examination in chief was deferred on her request as she sought adjournment for moving application under Section 319 Cr.P.C. Application under Section 319 Cr.P.C. moved by complainant has been dismissed vide order dated 09.06.2025.*

*Now the case has been adjourned to 09.07.2025 for further examination in chief of complainant PW5 Sameer Gill and for remaining prosecution evidence.”*

8. Speedy trial in all criminal persecutions is an inalienable right under Article 21 of the Constitution and not confined to any particular category of cases. In every case where the right to speedy

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trial is alleged to have been infringed, the Court has to perform the balancing act upon taking into consideration all the attending circumstances, and determine in each case whether the right to speedy trial has been denied in a given case or not. Where the Court comes to the conclusion that right to speedy trial has been infringed, it would be open to the Court to make an appropriate orders as it may deem just and equitable, including fixation of timeframe for conclusion of trial.

9. The Constitution Bench of the Hon'ble Supreme Court in ***Abdul Rehman Antulay*** (supra) has framed guidelines with regard to speedy trials and para 54 of the said judgment reads as under: -

*"54. In view of the above discussion, the following propositions emerge, meant to serve as guidelines. We must forewarn that these propositions are not exhaustive. It is difficult to foresee all situations. Nor is it possible to lay down any hard and fast rules. These propositions are:*

*1. Fair, just and reasonable procedure implicit in **Article 21 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the social interest also, does not make it any the less the right of the accused. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible in the circumstances.***

*2. Right to speedy trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and re-trial. That is how, this Court has understood this right and there is no reason to take a restricted view.*

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3. *The concerns underlying the right to speedy trial from the point of view of the accused are :*

*(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;*

*(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and*

*(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non- availability of witnesses or otherwise.*

4. *At the same time, one cannot ignore the fact that it is usually the accused who is interested in delaying the proceedings. As is often pointed out, "delay is a known defence tactic". Since the burden of proving the guilt of the accused lies upon the prosecution, delay ordinarily prejudices the prosecution. Non-availability of witnesses, disappearance of evidence by lapse of time really work against the interest of the prosecution. Of course, there may be cases where the prosecution, for whatever reason, also delays the proceedings. Therefore, in every case, where the right to speedy trial is alleged to have been infringed, the first question to be put and answered is - who is responsible for the delay? Proceedings taken by either party in good faith, to vindicate their rights and interest, as perceived by them, cannot be treated as delaying tactics nor can the time taken in pursuing such proceedings be counted towards delay. It goes without*

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*saying that frivolous proceedings or proceedings taken merely for delaying the day of reckoning cannot be treated as proceedings taken in good faith. The mere fact that an application/petition is admitted and an order of stay granted by a superior court is by itself no proof that the proceeding is not frivolous. Very often these stays are obtained on ex parte representation.*

*5. While determining whether undue delay has occurred (resulting in violation of Right to Speedy Trial) one must have regard to all the attendant circumstances, including nature of offence, number of accused and witnesses, the workload of the court concerned, prevailing local conditions and so on - what is called, the systemic delays. It is true that it is the obligation of the State to ensure a speedy trial and State includes judiciary as well, but a realistic and practical approach should be adopted in such matters instead of a pedantic one.*

*6. Each and every delay does not necessarily prejudice the accused. Some delays may indeed work to his advantage. As has been observed by Powell, J. in Barker "it cannot be said how long a delay is too long in a system where justice is supposed to be swift but deliberate". The same ideal has been stated by White, J. in U.S. v. Ewell, 1966(15) Law Ed 2d 627 in the following words:*

*'... the Sixth Amendment right to a speedy trial is necessarily relative, is consistent with delays, and has orderly expedition, rather than mere speed, as its essential ingredients; and whether delay in completing a prosecution amounts to an unconstitutional deprivation of rights depends upon all the circumstances.'*

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*However, inordinately long delay may be taken as presumptive proof of prejudice. In this context, the fact of incarceration of accused will also be a relevant fact. The prosecution should not be allowed to become a persecution. But when does the prosecution become persecution, again depends upon the facts of a given case.*

*7. We cannot recognise or give effect to, what is called the 'demand' rule. An accused cannot try himself; he is tried by the court at the behest of the prosecution. Hence, an accused's plea of denial of speedy trial cannot be defeated by saying that the accused did at no time demand a speedy trial. If in a given case, he did make such a demand and yet he was not tried speedily, it would be a plus point in his favour, but the mere non-asking for a speedy trial cannot be put against the accused. Even in USA, the relevance of demand rule has been substantially watered down in Barker and other succeeding cases.*

*8. Ultimately, the court has to balance and weigh the several relevant factors - 'balancing test' or 'balancing process' - and determine in each case whether the right to speedy trial has been denied in a given case.*

*9. Ordinarily speaking, where the court comes to the conclusion that right to speedy trial of an accused has been infringed the charges or the conviction, as the case may be, shall be quashed. But this is not the only course open. The nature of the offence and other circumstances in a given case may be such that quashing of proceedings may not be in the interest of justice. In such a case, it is open to the court to make such other appropriate order - including an order to conclude the trial within a fixed time where the trial is not concluded or reducing the sentence*

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*where the trial has concluded - as may be deemed just and equitable in the circumstances of the case.*

*10. It is neither advisable nor practicable to fix any time-limit for trial of offences. Any such rule is bound to be qualified one. Such rule cannot also be evolved merely to shift the burden of proving justification on to the shoulders of the prosecution. In every case of complaint of denial of right to speedy trial, it is primarily for the prosecution to justify and explain the delay. At the same time, it is the duty of the court to weigh all the circumstances of a given case before pronouncing upon the complaint. The Supreme Court of USA too has repeatedly refused to fix any such outer time- limit in spite of the Sixth Amendment. Nor do we think that not fixing any such outer limit ineffectuates the guarantee of right to speedy trial.*

*11. An objection based on denial of right to speedy trial and for relief on that account, should first be addressed to the High Court. Even if the High Court entertains such a plea, ordinarily it should not stay the proceedings, except in a case of grave and exceptional nature. Such proceedings in High Court must, however, be disposed of on a priority basis."*

10. In ***Kartar Singh v. State of Punjab, 1994(2) RCR (Criminal) 168***, the Constitution Bench of the Hon'ble Supreme Court held as under: -

*"89. The right to a speedy trial is a derivation from a provision of Magna Carta. This principle has also been incorporated into the Virginia Declaration of Rights of 1776 and from there into the Sixth Amendment of the Constitution of United States of America which reads, "In*

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*all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial...".*

90. *It may be pointed out, in this connection, that there is a Federal Act of 1974 called 'Speedy Trial Act' establishing a set of time-limits for carrying out the major events, e.g., information, indictment, arraignment, in the prosecution of criminal cases. [See Black's Law Dictionary, 6th Edn. page 1400].*

91. *The right to a speedy trial is not only an important safeguard to prevent undue and oppressive incarceration, to minimise anxiety and concern accompanying the accusation and to limit the possibility of impairing the ability of an accused to defend himself but also there is a societal interest in providing a speedy trial. This right has been actuated in the recent past and the courts have laid down a series of decisions opening up new vistas of fundamental rights. In fact, lot of cases are coming before the courts for quashing of proceedings on the ground of inordinate and undue delay stating that the invocation of this right even need not await formal indictment or charge.*

92. *The concept of speedy trial is read into Article 21 as an essential part of the fundamental right to life and liberty guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed by arrest and consequent incarceration and continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result from impermissible and avoidable delay from the time of the commission of the offence till it consummates into a finality, can be averted. In this context, it may be noted that the constitutional*

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*guarantee of speedy trial is properly reflected in Section 309 of the Code of Criminal Procedure.*

93. *This Court in **Hussainara Khatoon v. Home Secretary, State of Bihar, 1980(1) SCC 81**, while dealing with Article 21 of the Constitution of India has observed thus:*

*"No procedure which does not ensure a reasonably quick trial can be regarded as 'reasonable, fair or just' and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long delayed trial in violation of his fundamental right under Article 21. Would he be entitled to be released unconditionally free from the charge levelled against him on the ground that trying him after an unduly long period of time and convicting him after such trial would constitute violation of his fundamental right under Article 21."*

94. *See also (1) Sunil Batra v. Delhi Administration (I), 1979(1) SCR 392, (2) Hussainara Khatoon (I) v. Home Secretary, State of Bihar, 1979(3) SCR 169, (3) Hussainara Khatoon (IV) v. Home Secretary, State of Bihar, Patna, 1979(3) SCR 532, (4) Hussainara Khatoon v. Home Secretary, State of Bihar, Govt. of Bihar, Patna, 1979(3) SCR 1276, (5) Kadra Pahadia v. State of Bihar, 1983(2) SCC 104, (6) T.V. Vatheeswaran v. State of*

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*T.N., 1983(2) SCR 348 and (7) Abdul Rehman Antulay v. R.S. Nayak, 1992(1) SCC 225.*

*95. Thus this Court by a line of judicial pronouncements has emphasised and re-emphasised that speedy trial is one of the facets of the fundamental right to life and liberty enshrined in Article 21 and the law must ensure 'reasonable, just and fair' procedure which has a creative connotation after the decision of this Court in Maneka Gandhi v. Union of India, 1978(1) SCC 248."*

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*The Court further observed :*

*"99. Of course, no length of time is per se too long to pass scrutiny under this principle nor the accused is called upon to show the actual prejudice by delay of disposal of cases. On the other hand, the court has to adopt a balancing approach by taking note of the possible prejudices and disadvantages to be suffered by the accused by avoidable delay and to determine whether the accused in a criminal proceeding has been deprived of his right of having speedy trial with unreasonable delay which could be identified by the factors - (1) length of delay, (2) the justification for the delay, (3) the accused's assertion of his right to speedy trial, and (4) prejudice caused to the accused by such delay. However, the fact of delay is dependent on the circumstances of each case because reasons for delay will vary, such as delay in investigation on account of the widespread ramification of crimes and its designed network either nationally or internationally, the deliberate absence of witness or witnesses, crowded dockets on the file of the court etc."*

11. Thereafter, the Hon'ble Supreme Court in the case of **P.**

**Ramachandra Rao** (supra) has held as under: -

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*"31. For all the foregoing reasons, we are of the opinion that in Common Cause case (I) [as modified in Common Cause (II)] and Raj Deo Sharma (I) and (II) the Court could not have prescribed periods of limitation beyond which the trial of a criminal case or a criminal proceeding cannot continue and must mandatorily be closed followed by an order acquitting or discharging the accused. In conclusion we hold :*

*1. The dictum in A.R. Antulay case is correct and still holds the field.*

*2. The propositions emerging from Article 21 of the Constitution and expounding the right to speedy trial laid down as guidelines in A.R. Antulay case adequately take care of right to speedy trial. We uphold and reaffirm the said propositions.*

*3. The guidelines laid down in A.R. Antulay case are not exhaustive but only illustrative. They are not intended to operate as hard-and-fast rules or to be applied like a straitjacket formula. Their applicability would depend on the fact situation of each case. It is difficult to foresee all situations and no generalisation can be made.*

*4. It is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. The time-limits or bars of limitation prescribed in the several directions made in Common Cause (I), Raj Deo Sharma (I) and Raj Deo Sharma (II) could not have been so prescribed or drawn and are not good law. The criminal courts are not obliged to terminate trial or criminal proceedings merely on account of lapse of time, as prescribed by the directions made*

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*in Common Cause case (I), Raj Deo Sharma case (I) and (II). At the most the periods of time prescribed in those decisions can be taken by the courts seized of the trial or proceedings to act as reminders when they may be persuaded to apply their judicial mind to the facts and circumstances of the case before them and determine by taking into consideration the several relevant factors as pointed out in A.R. Antulay case and decide whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not by themselves be treated by any court as a bar to further continuance of the trial or proceedings and as mandatorily obliging the court to terminate the same and acquit or discharge the accused.*

*5. The criminal courts should exercise their available powers, such as those under Sections 309, 311 and 258 of the Code of Criminal Procedure to effectuate the right to speedy trial. A watchful and diligent trial Judge can prove to be a better protector of such right than any guidelines. In appropriate cases, jurisdiction of the High Court under Section 482 Criminal Procedure Code and Articles 226 and 227 of the Constitution can be invoked seeking appropriate relief or suitable directions.*

*6. This is an appropriate occasion to remind the Union of India and the State Governments of their constitutional obligation to strengthen the judiciary - quantitatively and qualitatively - by providing*

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*requisite funds, manpower and infrastructure. We hope and trust that the Governments shall act."*

12. Hon'ble Supreme Court in ***Mangal Singh and another v. Kishan Singh and others, (2009) 17 Supreme Court Cases 303*** held as under: -

***"12.....We are unable to agree with the High Court on both the counts. Any inordinate delay in conclusion of a criminal trial undoubtedly has a highly deleterious effect on the society generally, and particularly on the two sides to the case. But it will be a grave mistake to assume that delay in trial does not cause acute suffering and anguish to the victim of the offence. In many cases the victim may suffer even more than the accused. There is, therefore no reason to give all the benefits on account of the delay in trial to the accused and to completely deny all justice to the victim of the offence. In this case there is nothing to indicate that the appellants or the prosecution were responsible for the delay in trial. We are, therefore of the view that the High Court was not right in substituting the custodial sentence of the respondents to only fines of Rs.3500/-."***

13. Hon'ble Supreme Court in ***Rattiram and others v. State of M.P. through Inspector of Police, 2012(2) R.C.R.(Criminal) 471*** held as under: -

***"46. At this juncture, we would like to refer to two other concepts, namely, speedy trial and treatment of a victim in criminal jurisprudence based on the constitutional paradigm and principle. The entitlement of the accused to speedy trial has been repeatedly emphasized by this Court. It has been recognized as an inherent and implicit aspect in the spectrum***

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*of Article 21 of the Constitution. The whole purpose of speedy trial is intended to avoid oppression and prevent delay. It is a sacrosanct obligation of all concerned with the justice dispensation system to see that the administration of criminal justice becomes effective, vibrant and meaningful. The concept of speedy trial cannot be allowed to remain a mere formality (see Hussainara Khatoon and Ors. V. Home Secretary, State of Bihar, (1980)1 SCC 81, Moti Lal Saraf v. State of Jammu & Kashmir, 2006(4) RCR (Criminal) 637 : 2006(3) Apex Criminal 480 and Raj Deo Sharma v. State of Bihar, 1998(4) RCR (Criminal) 396:1998(37) ACC 834(SC).*

*47. While delineating on the facets of speedy trial, it cannot be regarded as an exclusive right of the accused. The right of a victim has been given recognition in Mangal Singh and Anr. V. Kishan Singh and ors., AIR 2009 Supreme Court 1535 wherein it has been observed thus :-*

*“Any inordinate delay in conclusion of a criminal trial undoubtedly has highly deleterious effect on the society generally and particularly on the two sides of the case. But it will be a grave mistake to assume that delay in trial does not cause acute suffering and anguish to the victim of the offence. In many cases the victim may suffer even more than the accused. There is, therefore no reason to give all the benefits on account of the delay in trial to the accused and to completely deny all justice to the victim of the offence.”*

*48. It is worth noting that the Constitution Bench in Iqbal Singh Marwah and another v. Meenakshi Marwah and another, 2005(2) RCR (Criminal) 178: 2005(1) Apex Criminal 581 : 2005(28) AIC 1 (SC) : 2005(51) ACC 910 (SC) though in a different context, had also observed that delay in the prosecution of a guilty person comes to his advantage as*



***witnesses becomes reluctant to give evidence and the evidence gets lost.”***

14. The right to a speedy trial was first recognised in ***Hussainara Khatoon's*** case (supra), wherein, the Hon'ble Supreme Court held that a speedy trial is implicit in the broad sweep and content of Article 21 of the Constitution. Subsequently, in a series of judgments, the Hon'ble Supreme Court has held that 'reasonably' expeditious trial is an integral and essential part of the Fundamental Right to Life and Liberty enshrined in Article 21 of the Constitution of India. So when a trial stretches into years, the process itself turns punitive, transforming justice from a remedy into a burden.

15. While considering the facts of the present case, it has emerged that the trial is pending since the year 2013.

16. In view of the facts of this case having been gone into, it transpires that proceedings in the present case before the trial Court are going on in such manner which raises serious concern regarding the efficiency of the system of administration of justice. It is well-settled that justice delayed is justice denied and speedy trial is not a procedural luxury, it is a constitutional necessity flowing from the guarantee of life and personal liberty under Article 21 of the Constitution.

17 In view of the peculiar facts and circumstances of this case, this Court deems it appropriate to issue directions to the trial Court to conclude the trial in the present case preferably within a period of six months without granting unnecessary and unwarranted adjournments from the date of receipt of certified copy of this order.

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The parties to the case are directed to fully co-operate/assist the trial Court in expeditious disposal of the case.

18. Copy of this order be sent to the trial Court for immediate compliance forthwith.

19. The petition stands disposed of with the above directions.

01.10.2025  
R.S.

**(NAMIT KUMAR)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No