THE HIGH COURT OF ORISSA, CUTTACK

NO. XI-44/2026/R. 14609 **Date.** 22/09/2026

From;

Dr. Bhagyalaxmi Rath
Registrar General

To,

The District & Sessions Judge,.....(All)

Sub: **Order dated 22.09.2025 passed by the Hon'ble Supreme Court of India in SLP (Crl.) No. 969 of 2025 [Central Bureau of Investigation v. Mir Usman @ Ara @ Mir Usman Ali].**

Sir,

While considering the direction issued in Paragraph-37 of the Order dated 22.09.2025 passed by the Hon'ble Supreme Court of India in SLP (Crl.) No. 969 of 2025 [Central Bureau of Investigation v. Mir Usman @ Ara @ Mir Usman Ali], this Court has been pleased to direct for strict adherence of the direction imparted therein.

Paragraph 37 of the aforesaid order is reproduced here which is as follows :

[1] The proceedings in every inquiry or trial shall be held expeditiously.

[2] When the stage of examination of witnesses starts such examination shall be continued from day-to-day until all the witnesses in the attendance have been examined except for special reasons to be recorded in writing.

[3] When the witnesses are in attendance before the Court no adjournment or postponement shall be granted without examining them, except for special reasons to be recorded in writing.

[4] The Court should not grant the adjournment to suit the convenience of the advocate concerned except on very exceptional grounds like bereavement in the family and similar exceptional reasons duly supported by memo. Be it noted that the said inconvenience of an advocate is not a "Special Reason" for the purpose of bypassing the immunity of Section 309 of the Cr.P.C.

[5] In case of non-cooperation of accused or his counsel, the following shall be kept in mind:

a. In case of non-cooperation of the counsel, the Court shall satisfy itself whether the non-cooperation is in active collusion with the accused to delay the trial. If it is so satisfied for reasons to be recorded in writing, it may, if the accused

is on bail, put the accused on notice to show cause why the bail cannot be cancelled.

b. In cases where the accused is not in collusion with lawyer and it is the lawyer who is not cooperating with the trial, the Court may for reason to be recorded, appoint an amicus curiae for the accused and fix a date for proceeding with cross-examination/trial.

c. The Court may also in appropriate cases impose cost on the accused commensurate with the loss suffered by the witness including the expenses to attend the court.

d. In case when the accused is absent and the witness is present for examination, in that case the Court can cancel the bail of accused if he is on bail. (Unless an application is made on his behalf seeking permission for his counsel to proceed to examine the witness present even in his absence, provided the accused gives an undertaking in writing that, he would not dispute, his identity as a particular accused in the case.)

[6] The Presiding Officer of each Court may evolve the system for framing a schedule of constructive working days for examination of witnesses in each case, well in advance, after ascertaining the convenience of counsel on both sides.

[7] The summons or process could be handed over to the Public Prosecutor in-charge of the case to cause them to be served on the witnesses, as per schedule fixed by the Court.]"

In enclosing a copy of the aforementioned Order, I am, therefore, directed to request you to communicate the same to all Judicial Officers working within your jurisdiction for their information and strict adherence.

Yours faithfully,

21.9.2026

REGISTRAR GENERAL

Encl.- As above

Through e-mail

OFFICE OF THE DISTRICT JUDGE, GANJAM, BERHAMPUR.

e-mail: dsj.ganjam-od@indiancourts.nic.in

Memo No. 12559 (70) ***dtd.*** 23/09/2026

Copy along with its enclosure is forwarded to: -

1. The Member, 2nd MACT (SD), Berhampur
2. The Judge, Family Court, Berhampur
3. The Spl. Judge (Vig.), Berhampur
4. The Additional District Judge-cum-Spl. Court under POCSO Act, Berhampur
5. The Ad-hoc Additional District Judge, (FTSC) under POCSO Act, Berhampur
6. The Presiding Officer, Designated Court under OPID Act, Berhampur
7. The 1st / 2nd / 3rd Addl. District Judge, Berhampur
8. The Addl. District Judge (LR & LTV), Berhampur
9. The Additional District Judge, Aska / Bhanjanagar / Chatrapur / Khallikote / Kodala
10. The Chief Judicial Magistrate, Ganjam, Berhampur
11. The Addl. Chief Judicial Magistrate, Berhampur
12. The ASJ-cum-Registrar, Civil Courts, Berhampur
13. The Civil Judge (Sr. Divn), Berhampur
14. The Civil Judge (Sr. Divn.), Aska / Bhanjanagar / Chatrapur / Hinjilicut / Khallikote / Kodala / Purushottampur / Sorada / Digapahandi
15. The Civil Judge (Sr. Divn.) (Commercial Court), Berhampur
16. The 1st / 2nd Additional Civil Judge (Sr. Divn.), Berhampur
17. The Civil Judge (Sr. Divn.) (LR & LTV), Berhampur
18. The Principal Magistrate, Juvenile Justice Board, Berhampur
19. The Principal Magistrate, Additional Juvenile Justice Baord, Chhatrapur
20. The Civil Judge, Berhampur / The Civil Judge-cum-JMFC, Aska
21. The SDJM, Berhampur / Bhanjanagar / Chatrapur
22. The J.M.F.C(Rural) (Cog.Taking.), Berhampur
23. The JMFC Aska (Cog.) / Bhanjanagar / Buguda / Chatrapur / Digapahandi / Hinjilicut / Jagannathprasad/ Kabisuryanagar / Khallikote / Kodala / Patrapur / Polasara / Purushottampur / Seragada / Soroda / The Nyayadhikari, Gramnyayalaya, Sanakhemundi / The JMFC (Transport), Berhampur / All the JMFCs, Berhampur/ Aska
24. The Executive Assistant, District Court, Ganjam, Berhampur
25. Peshkar/ Sessions Clerk/ Civil Appeal Clerk/ Criminal Appeal Clerk/ MAC Clerk, District Court, Berhampur

    for information and strict adherence.
26. The System Officer, District Court, Ganjam, Berhampur for information with a direction to upload the same on the Official Website of Ganjam Judgeship for general information.
27. Guard file.

Registrar,
Civil Courts, Berhampur,
23/09/2026

2025 INSC 1155

REPORTABLE

IN THE SUPREME COURT OF INDIA

EXTRAORDINARY APPELLATE JURISDICTION

Petition(s) for Special Leave to Appeal (Crl.) No(s). 969/2025

THE CENTRAL BUREAU OF INVESTIGATION Petitioner(s)

VERSUS

MIR USMAN @ ARA @ MIR USMAN ALI Respondent(s)

O R D E R

1. Our order dated 8-9-2025 reads thus:-

> *"1. The CBI, being aggrieved by the order passed by the High Court, granting bail to the respondent in connection with an offence of rape, has preferred this petition seeking to get the bail cancelled.*
>
> *2. At the relevant point of time, when the High Court granted bail to the respondent he was already in custody past 3 years and 5 months. It has been almost 1 year that the High Court ordered release of the respondent on bail.*
>
> *3. We heard Ms. Archana Pathak Dave, the learned Additional Solicitor General appearing for the petitioner - CBI and Mr. Anjan Datta, the learned counsel appearing for the respondent.*
>
> *4. We are informed that the Trial Court has started recording oral evidence of the witnesses. We are further informed that the victim has already stepped into the witness box and her oral evidence is being recorded. The next date fixed by the Trial Court for further examination of the victim is 18-12-2025.*
>
> *5. We fail to understand that once the witnesses and more particularly when the victim herself has stepped into the witness box why this examination in piecemeal. Why*

Signature Not Verified
Digitally signed by VISHAL ANAND
Date: 2025.09.25 13:37:26 IST
Reason:

should the trial court adjourn the further examination of the victim by a period of four months. The trial court owes an explanation in this regard. By granting time for further examination, the trial court could be said to have unwittingly facilitated the accused to tamper with the prosecution witnesses. This is something which we should not ignore as it is a matter of grave concern.

6. Even the CBI owes an explanation, more particularly the public prosecutor, in-charge of the Trial. Why the victim has been put in the box after a long time. The victim should have been the first witness to step into the witness box.

7. Registry shall call for an appropriate report from the trial court as regards the status of the trial. How many witnesses have been examined so far. When was the victim examined the last. How many more witnesses the prosecution intends to examine before the prosecution closes its evidence.

8. Let this report be called for so as to reach this Court within a period of one week from today.

9. We grant one week's time to the respondent to file his counter affidavit

10. Post it on 22-9-2025 on top of the Board."

2. In pursuance of the order passed by us, referred to above, we have received the Status Report from the Additional Sessions Judge, 1st -cum-Special Court, Tamluk, Distt. Purba Medinipur explaining in what circumstances the cross-examination of the victim had to be deferred and why the witnesses are being examined in piecemeal.

3. The entire Status Report dated 11-9-2025 reads thus:-

"In compliance to the order passed by the Hon'ble Supreme Court of India in connection with Petition for Special Leave to Appeal(Criminal) No.969/2025 dated.08.09.2025, I beg to state as follows:

1) The date of recording evidence of the prosecution witnesses of the instant case vide TR(Atro) 31 of 2021 (arising out of arising out of R.C Case No. 056S20210033 of 2021) was fixed on 25.08.2025.

On that date the Ld. Special Public Prosecutor for CBI placed the victim in witness Box and during recording of evidence, the victim suddenly fell ill and was unable to stand in the witness to depose further evidence. The Ld. Special Prosecutor for the CBI, submitted a petition praying for adjournment of the recording of the evidence of the victim and fixing another date for recording of

her evidence. Considering the sudden illness of the victim and as per verbal submission of the prosecution, the prayer of the Ld. Special Public Prosecutor was allowed fixing 18.12.2025 for further recording of evidence of the victim. (the copy of petition of the Ld. Special Public Prosecutor dated 25.08.2025 praying for adjournment due to illness of the victim is enclosed herewith this Explanation).

I beg to add that this Court would have concluded the recording of evidence of the victim on that very date had the victim not fell ill in witness Box during recording her evidence.

2) This Court not only tries the sessions cases but being the Special Court also tries the cases under the Narcotic Drugs & Psychotropic Substances(NDPS) Act, Scheduled Caste and Scheduled Tribes Act, Prevention of Corruption Act, Electricity Act. Offences under Section 409 of I.P.C/116(5) of BNS and also hearing Civil Appeals, MACC Cases, L.A Cases and other types of civil cases. The total number of pending cases as on 01.08.2025 was 4,731. There are lot of Custody Trial Cases are pending in my court basically NDPS Cases and some Sessions (Murder) cases. So, to accommodate the dates for the custody trial cases in order to prioritize the disposal of the same and other cases in which the accused persons are facing stringent bail conditions as well as the reduction of arear cases pending for more than 10 &; 20 years cases in view of the order of the Hon'ble High Court, Calcutta, as conveyed by the Office of the Ld. District Judge, Purba Medinipur, Tamluk, vide Memo No. 353/XVII-I, dated, 12th February, 2025 for implementation of the action plan for arrear reduction of cases within specified period, the date of the aforesaid case was fixed on 18.12.2025 which was completely unintentional. Moreover the Civil Courts in West Bengal will remain close for a month i.e. on and from 27.09.2025 to 23.10.2025 due to 'Durga Puja Festival'.

3) It is to be mentioned out here that the date of recording of the victim fixed on 18.12.2025 is shifted back to 24.10.2025 i.e. on the opening date of Court after Puja vacation with an assurance that henceforth a very shorthand consecutives dates will be fixed for recording evidence of the other prosecution witnesses once the recording of evidence of the victim is concluded. The change of date of recording evidence of the victim has already been intimated to both the Ld. Special Public Prosecutor for CBI and the Ld. Defence Counsel with a direction to be present on that date positively for recording the evidence of the victim. Status of the Trial:

4) The prosecution has first placed the defacto-complainant i.e. the daughter-in-law of the victim for

recording her evidence and the defacto-complainant has been examined as PW-1 and till date only one witness has examined so far as the proceedings of the case was stayed for a considerable period of time. The Ld. Special Public Prosecutor placed the victim for recording evidence first on 25.08.2025 and during recording of evidence, the victim suddenly fell ill and as per prayer of the Ld. Public Prosecutor for CBI, the recording of her evidence is adjourned fixing 18.12.2025. The date of recording of the evidence fixed on 18.12.2025 is shifted back to 24.10.2025 on the date of opening of Court after Puja Vacation.

This Court assures that consecutives dates will be fixed for recording evidence of the other prosecution witnesses once the recording of evidence of the victim is concluded. The prosecution did not submit any list as to how many more witnesses it intends to examine before closing it's evidence.

This is for favour of your Honour for kind information and pray for placing the same before the Hon'ble Court."

4. What we have been able to understand from the aforesaid is that while the victim was in the witness box and was being cross-examined by the defence counsel, she all of a sudden fell ill and in such circumstances, the Trial Judge had to discontinue her further cross-examination. The further cross-examination of the victim was straight away adjourned by four months. The next date fixed was 24.10.2025.

5. We heard Ms. Archana Pathak Dave, the learned Additional Solicitor General appearing for the CBI and Mr. Anjan Datta, the learned counsel appearing for the respondent - accused.

6. According to the learned ASG, the Public Prosecutor in-charge of the trial intends to examine as many as 30 witnesses. According to her, at one point of time, the prosecution wanted to examine almost 60 witnesses. However, later wisdom dawned upon the learned Public Prosecutor and now he has brought down the number to 30.

7. We fail to understand why the Public Prosecutor wants to examine 30 witnesses in a trial for the offence of rape. What is the idea in multiplying the witnesses on one particular issue or the other.

8. We are conscious of the fact that it is the Public Prosecutor

who could be said to be in-charge of the criminal trial, but at the same time, if the Court finds that unnecessary examination of the witnesses is protracting the trial, then definitely it is a matter of concern. This aspect should be looked into by the Trial Judge himself. The Trial Judge should ask the Public Prosecutor why he wants to examine a particular witness.

9. In the present case, the accused has been ordered to be released on bail. Take a case where the accused is in jail and four years have elapsed as an under-trial prisoner, then what would be the position?

10. Over a period of time, this Court in many of its Judgments and orders has said that it is the quality of the evidence that is important and not the quantity. If examination of unnecessary witnesses is delaying the trial, it would serve no good purpose.

11. Be that as it may, having regard to the fact that the respondent - accused was ordered to be released on bail last year i.e., on 24-9-2024 and almost one year is going to elapse, we are not persuaded to set aside the bail and order that he may be taken back in custody. We want to ensure that the trial proceeds expeditiously and only important witnesses are examined by the State to prove its case.

Position of Law

12. Section 309 Criminal Procedure Code, 1973 (for short, "Cr.P.C.") reads as under:

> *"309. Power to postpone or adjourn proceedings.-*
> *(1) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:*
> *Provided that when the inquiry or trial relates to an offence under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section DB of the Indian Penal Code (45 of 1860), the inquiry or trial shall] be completed within a period of two months from the date of filing of the charge sheet.*

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:
Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:
Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.
Provided also that—

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

(c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanation 1.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused."

13. In a comprehensive decision of this Court in *State of U.P. v. Shambhu Nath Singh and Ors.* reported in *(2001) 4 SCC 667* the legal position on the aspect of delay in the examination of the witnesses and the purport of Section 309 of the Cr.P.C.(now Section 346 of the BNSS,

2023) have been dealt with in extenso in paragraphs 11, 12, 13, 14 and 18 respectively. The relevant paragraphs read thus:

> *11. The first sub-section mandates on the trial courts that the proceedings shall be held expeditiously but the words "as expeditiously as possible" have provided some play at the joints and it is through such play that delay often creeps in the trials. Even so, the next limb of the sub-section sounded for a more vigorous stance to be adopted by the court at a further advanced stage of the trial. That stage is when examination of the witnesses begins. The legislature which diluted the vigour of the mandate contained in the initial limb of the sub-section by using the words "as expeditiously as possible" has chosen to make the requirement for the next stage (when examination of the witnesses has started) to be quite stern. Once the case reaches that stage the statutory command is that such examination "shall be continued from day to day until all the witnesses in attendance have been examined". The solitary exception to the said stringent rule is, if the court finds that adjournment "beyond the following day to be necessary" the same can be granted for which a condition is imposed on the court that reasons for the same should be recorded. Even this dilution has been taken away when witnesses are in attendance before the court. In such situation the court is not given any power to adjourn the case except in the extreme contingency for which the second proviso to sub-section (2) has imposed another condition, "provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing".*
>
> *(emphasis supplied)*
>
> *12. Thus, the legal position is that once examination of witnesses started, the court has to continue the trial from day to day until all witnesses in attendance have been examined (except those whom the party has given up). The court has to record reasons for deviating from the said course. Even that is forbidden when witnesses are present in court, as the requirement then is that the court has to examine them. Only if there are "special reasons", which reasons should find a place in the order for adjournment, that alone can confer jurisdiction on the court to adjourn the case without examination of witnesses who are present in court.*
>
> *13. Now, we are distressed to note that it is almost a common practice and regular occurrence that trial courts flout the said command with impunity. Even when witnesses are present, cases are adjourned on far less*

serious reasons or even on flippant grounds. Adjournments are granted even in such situations on the mere asking for it. Quite often such adjournments are granted to suit the convenience of the advocate concerned. We make it clear that the legislature has frowned at granting adjournments on that ground. At any rate inconvenience of an advocate is not a "special reason" for bypassing the mandate of Section 309 of the Code.

14. If any court finds that the day-to-day examination of witnesses mandated by the legislature cannot be complied with due to the non-cooperation of the accused or his counsel the court can adopt any of the measures indicated in the sub-section i.e. remanding the accused to custody or imposing cost on the party who wants such adjournments (the cost must be commensurate with the loss suffered by the witnesses, including the expenses to attend the court). Another option is, when the accused is absent and the witness is present to be examined, the court can cancel his bail, if he is on bail (unless an application is made on his behalf seeking permission for his counsel to proceed to examine the witnesses present even in his absence provided the accused gives an undertaking in writing that he would not dispute his identity as the particular accused in the case).

18. It is no justification to glide on any alibi by blaming the infrastructure for skirting the legislative mandates embalmed in Section 309 of the Code. A judicious judicial officer who is committed to his work could manage with the existing infrastructure for complying with such legislative mandates. The precept in the old homily that a lazy workman always blames his tools, is the only answer to those indolent judicial officers who find fault with the defects in the system and the imperfections of the existing infrastructure for their tardiness in coping with such directions."

14. In the aforesaid context, we may recapitulate a passage from *Gurnaib Singh v. State of Punjab* reported in *(2013) 7 SCC 108* as follows:

"1 ..... We are compelled to proceed to reiterate the law and express our anguish pertaining to the manner in which the trial was conducted as it depicts a very disturbing scenario. As is demonstrable from the record, the trial was conducted in an extremely haphazard and piecemeal manner. Adjournments were granted on a mere asking. The cross-examination of the witnesses was deferred without recording any special reason and dates were given after a long gap. The mandate of the law and

> *the views expressed by this Court from time to time appears to have been totally kept at bay. The learned trial Judge, as is perceptible, seems to have ostracised from his memory that a criminal trial has its own gravity and sanctity. In this regard, we may refer with profit to the pronouncement in Talab Haji Hussain v. Madhukar Purshottam Mondkar2 wherein it has been stated that an accused person by his conduct cannot put a fair trial into jeopardy, for it is the primary and paramount duty of the criminal courts to ensure that the risk to fair trial is removed and trials are allowed to proceed smoothly without any interruption or obstruction."*

15. Be it noted, in the said case, the following passage from *Swaran Singh v. State of Punjab* reported in *(2000) 5 SCC 668*, was reproduced. "It has become more or less a fashion to have a criminal case adjourned again and again till the witness tires and gives up. It is the game of unscrupulous lawyers to get adjournments for one excuse or the other till a witness is won over or is tired. Not only is a witness threatened, he is abducted, he is maimed, he is done away with, or even bribed. There is no protection for him. In adjourning the matter without any valid cause a court unwittingly becomes party to miscarriage of justice."

16. In this regard, it is also fruitful to refer to the authority in *Shambu Nath Singh (supra)* wherein this Court deprecating the practice of a Sessions Court adjourning a case in spite of the presence of the witnesses willing to be examined fully, opined thus:

> *"9. We make it abundantly clear that if a witness is present in court he must be examined on that day. The court must know that most of the witnesses could attend the court only at heavy cost to them, after keeping aside their own avocation. Certainly they incur suffering and loss of income. The meagre amount of bhatta (allowance) which a witness may be paid by the court is generally a poor solace for the financial loss incurred by him. It is a sad plight in the trial courts that witnesses who are called through summons or other processes stand at the doorstep from morning till evening only to be told at the end of the day that the case is adjourned to another day. This primitive practice must be reformed by the presiding officers of the trial courts and it can be reformed by everyone provided the presiding officer concerned has a commitment towards duty."*

17. This Court in *Doongar Singh and ors. v. State of Rajasthan* reported in *(2017) INSC 1154* after referring to all the aforesaid decisions of this Court observed as under:

> *"9. In spite of repeated directions of this Court, the situation appears to have remained unremedied.*
>
> *10. We hope that the Presiding Officers of the trial courts conducting criminal trials will be mindful of not giving such adjournments after commencement of the evidence in serious criminal cases.*
>
> *11. We are also of the view that it is necessary in the interest of justice that the eye-witnesses are examined by the prosecution at the earliest.*
>
> *12. It is also necessary that the statements of eye-witnesses are got recorded during investigation itself under Section 164 of the Cr.P.C. In view of amendment to Section 164 Cr.P.C. by the Act No. 5 of 2009, such statement of witnesses should be got recorded by audio-video electronic means.*
>
> *13. To conclude: (i) The trial courts must carry out the mandate of Section 309 of the Cr.P.C. as reiterated in judgments of this Court, inter alia, in State of U.P. versus Shambhu Nath Singh and Others (2001) 4 SCC 667 , Mohd. Khalid versus State of W.B. (2002)7 SCC 334 and Vinod Kumar versus State of Punjab (2015)3 SCC 220. (ii) The eye-witnesses must be examined by the prosecution as soon as possible. (iii) Statements of eye-witnesses should invariably be recorded under Section 164 of the Cr.P.C. as per procedure prescribed thereunder.*
>
> *14. The High Courts may issue appropriate directions to the trial courts for compliance of the above."*

18. Thus, in *Doongar Singh (supra)* this Court in no uncertain terms had conveyed that the trial courts must carry out the mandate of Section 309 of the CrPC (now Section 346 of the BNSS, 2023) as reiterated in *Shambhu Nath Singh (supra), Mohd. Khalid (supra)* and *Vinod Kumar (supra)*.

19. There are various other provisions in the Cr.P.C. (now BNSS, 2023) which ensure speedy trial and an early investigation:

> I. Under Section 157(1) of Cr.P.C. (now Section 176 of the BNSS, 2023) every officer in charge of a police station is bound to proceed, to the spot, to investigate

the facts and circumstances of the case, and if necessary, to take measures for the discovery and arrest of the offender.

II. Section 167(2)(a) of Cr.P.C. (now Section 187 of the BNSS, 2023) provides that no magistrate shall authorise the detention of the accused person in custody for totalperiod exceeding;

(i) 90 days, where the investigation relates to an offence punishable with death, life imprisonment for life or imprisonment for a term of not less than 10 years;

(ii) 60 days, where the investigation relates to any other offence, and on the expiration of such period as case may be the accused shall be released on bail.

III. Section 173(1) of Cr.P.C. (now Section 173(1) of the BNSS, 2023) provides that every investigation under chapter XII shall be completed without unnecessary delay.

IV. Section 173(1A) of Cr.P.C. (now Section 173 of the BNSS, 2023) provides that the investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.

V. Section 207 of Cr.P.C. (now Section 230 of the BNSS, 2023) casts a duty on the magistrate that a copy of (i) the police report;(ii) FIR recorded under section 154 (iii) statement recorded under section 161(3) of all persons(iv)confession and statement recorded under section 164(v) any other document forwarded to the magistrate with the police report under section 173(5), shall be given to the accused free of coast.

VI. Chapter XXI of Cr.P.C. provides provisions (from Section 260 to 265, now Sections 283 to 287 of the BNSS, 2023) for summary trial in certain petty offences.

VII. Chapter XXIA of Cr.P.C. provides provisions (from Section 265-A to 265-L, now Sections 289 to 303 of the BNSS, 2023) for Plea Bargaining. This chapter is applicable to other than an offence which punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years has been provided under the law time being in force but does not apply where such offences affects the socio economic condition of the country or has been committed against a woman, or a child below age of fourteen years.

VIII. Section 309(1) of Cr.P.C. (now Section 346 of the BNSS, 2023) provides that in every inquiry or trial

the proceeding shall be continued from day to day until all the witnesses in attendance have been examined. It also provides that when the inquiry or trial relates to an offence under section 376, or 376-A or 376-B or 376-C or 376-D of the Indian Penal Code, 1860, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the chargesheet.

IX. Section 468 of Cr.P.C. (now Section 514 of the BNSS, 2023) Provides bar in taking cognizance after lapse of the period of limitation. Sub section (2) provides limitation period as (a) 6 months, if the offence is punishable with fine only (b) 1 year, if the offence is punishable with imprisonment for a term not exceeding one year (c) 3 year, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

20. Section 309 of the Cr.P.C. (now Section 346 of the BNSS, 2023) contains a mandatory provision that in every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day basis until all the witnesses in attendance have been examined unless the Court finds the adjournment of the case beyond the following day to be necessary for reasons to be recorded. The emphasis of this Section cannot be overlooked and must not be overlooked by any Judicial Officer who tries a criminal case, much less by the higher officers, like the Sessions Judges presiding over the Sessions Court, where serious offences are being tried day in and day out.

21. It is true that the court has the discretion to defer the cross-examination. But we do not approve the practice prevailing in the trial courts across the country that the examination-in-chief of a particular witness is recorded in a particular month and his cross-examination would follow in particular subsequent month. The legal position is that once the examination of witnesses starts the court concerned must continue the trial from day to day until all the witnesses in attendance have been

examined (except those whom the public prosecutor has given up). We are at pains to note that it is almost a common practice and regular occurrence that the trial courts flout the said mandate with impunity. Even when witnesses are present, cases are adjourned on far less serious reasons or even on flimsy grounds. The legislature itself has frowned at granting adjournment on flimsy grounds.

22. In *Mohd. Khalid v. State of W.B.* reported in *2002 (7) SCC 334*, a three Judge Bench of this Court did not approve the deferment of the cross-examination of the witness for a long time and, deprecating the said practice, it observed as follows:

> *"Unnecessary adjournments give a scope for a grievance that the accused persons get a time to get over the witnesses. Whatever be the truth in this allegation, the fact remains that such adjournments lack the spirit of Section 309 of the Code. When a witness is available and his examination in chief is over, unless compelling reasons are there, the trial court should not adjourn the matter on the mere asking."*

23. In *Akil alias Javed v. State of Delhi* reported in *2012 (11) SCALE 709*, this Court, after surveying the earlier pronouncements, has stressed on the compliance of the procedure and expressed its anguish that the Trial Courts are not strictly adhering to the procedure prescribed under the provisions contained in Section 231 along with Section 309 of the Cr.P.C. respectively and further emphasised that such adherence can ensure speedy trial of cases and also rule out the possibility of any maneuvering taking place by granting undue long adjournment for mere asking.

24. In *Hussainara Khatoon and Ors. v. Home Secretary, State of Bihar, Patna* reported in *(1980) 1 SCC 81*, this Court held that an expeditious trial is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21 of the Constitution.

25. In *A.R. Antulay v. R. S. Nayak* reported in *(1992) 1 SCC 225*, this

Court declared that speedy trial is not only the right of the accused but is also in public interest and that the right to speedy trial flowing from Article 21 encompasses all the stages, namely, the stage of investigation, inquiry, trial, appeal, revision and retrial.

26. In *Sher Singh v. State of Punjab* reported in *(1983) 2 SCC 344*, this Court sounded the following note of caution against delay of criminal trials:

> *"16... The essence of the matter is that all procedure, no matter what the stage, must be fair, just and reasonable...Article 21 stands like a sentinel over human misery... It reverberates through all stages the trial, the sentence, the incarceration and finally, the execution of the sentence."*

27. To the same effect are the decisions of this Court in *Javed Ahmed Abdul Hamid Pawala v. State of Maharashtra* reported in *(1985) 1 SCC 275* and *Triveni Ben v. State of Gujarat* reported in *(1989) 1 SCC 678*. Even in cases where the accused had been enlarged on bail the right to a speedy trial was held to be a part of the fundamental right under Article 21 of the Constitution. The decisions of this Court in *Biswanath Prasad Singh v. State of Bihar* reported in *1994 Supp.(3) SCC 97* and *Mahendra Lal Das v. State of Bihar and Ors.* reported in *(2002) 1 SCC 149* may be referred to in this regard.

28. It is in the light of the settled legal position that it is no longer possible to question the legitimacy of the right to speedy trial as a part of the right to life under Article 21 of the Constitution. The essence of Article 21 of the Constitution lies not only in ensuring that no citizen is deprived of his life or personal liberty except according to procedure established by law, but also that such procedure ensures both fairness and an expeditious conclusion of the trial.

29. In *Lt. Col. S.J. Chaudhary v. State (Delhi Administration)* reported

in *AIR 1984 SC 618*, it was held that it is most expedient that the trial before the Court of Session should proceed and be dealt with continuously from its inception to its finish. Not only will it result in expedition, it will also result in the elimination of manoeuvre and mischief. It will be in the interest of both the prosecution and the defence that the trial proceeds from day to day. It is necessary to realise that Sessions cases must not be tried piecemeal. Once the trial commences, except for a very pressing reason which makes an adjournment inevitable, it must proceed de die in diem until the trial is concluded.

30. In *Gurnaib Singh* (supra) this Court observed in para 34 as under:

> *"We have expressed our anguish, agony and concern about the manner in which the trial has been conducted. We hope and trust that the trial courts shall keep in mind the statutory provisions and the interpretation placed by this Court and not be guided by their own thinking or should not become mute spectators when a trial is being conducted by allowing the control to the counsel for the parties. They have their roles to perform. They are required to monitor. They cannot abandon their responsibility. It should be borne in mind that the whole dispensation of criminal justice system at the ground level rests on how a trial is conducted. It needs no special emphasis to state that dispensation of criminal justice system is not only a concern of the Bench but has to be the concern of the Bar. The administration of justice reflects its purity when the Bench and the Bar perform their duties with utmost sincerity. An advocate cannot afford to bring any kind of disrespect to fairness of trial by taking recourse to subterfuges for procrastinating the same."*

31. The right to speedy trial is implicit in Article 21 of the constitution of India. The first written articulation of the right to speedy trial appeared in 1215 in the Magna Carta: "We will sell to no man, we will not deny or defer to any man either justice or right." Article 21 of the Indian constitution declares that "no person shall be deprived of his life or personal liberty except according to the procedure laid by law." Justice V.R. Krishna Iyer in *Babu Singh v. State*

of U.P. reported in *AIR 1978 SC 527* remarked, "Our justice system even in grave cases, suffers from slow motion syndrome which is lethal to "fair trial" whatever the ultimate decision. Speedy justice is a component of social justice since the community, as a whole, is concerned in the criminal being condignly and finally punished within a reasonable time and the innocent being absolved from the inordinate ordeal of criminal proceedings." In the case of *Sheela Barse v. Union of India* reported in *(1986) 3 SCR 562*, this Court has held that the right to speedy trial is a fundamental right. Further it was stated by this Court that the consequence of violation of the fundamental right to speedy trial would be that the prosecution itself would be liable to be quashed on the ground that it is in breach of fundamental right.

32. Section 309 has been inserted in the Cr.P.C. keeping in view this constitutional mandate of speedy trial.

33. In the decision reported in *Lt. Col. S.J. Chaudhary v. State (Delhi Administration)* reported in *(1984) 1 SCC 722*, this Court in paras 2 and 3 respectively has held as under:

> "2. *We think it is an entirely wholesome practice for the trial to go on from day to day. It is most expedient that the trial before the Court of Session should proceed and be dealt with continuously from its inception to its finish. Not only will it result in expedition, it will also result in the elimination of manoeuvre and mischief. It will be in the interest of both the prosecution and the defence that the trial proceeds from day to day. It is necessary to realise that Sessions cases must not be tried piecemeal. Before commencing a trial, a Sessions Judge must satisfy himself that all necessary evidence is available. If it is not, he may postpone the case, but only on the strongest possible ground and for the shortest possible period. Once the trial commences, he should, except for a very pressing reason which makes an adjournment inevitable, proceed de die in diem until the trial is concluded*.
>
> 3. *We are unable to appreciate the difficulty said to be experienced by the Petitioner. It is stated that his Advocate is finding it difficult to attend the court*

from day to day. It is the duty of every Advocate, who accepts the brief in a criminal case to attend the trial from day to day. We cannot overstress the duty of the Advocate to attend to the trial from day to day. Having accepted the brief, he will be committing a breach of his professional duty, if he so fails to attend. The criminal miscellaneous petition is, therefore, dismissed."

(emphasis supplied)

34. Again, in *Vinod Kumar v. State of Punjab* reported in *2015 (1) SCALE 542*, this Court expressed the agony and anguish by observing as under:

"*41. ....Adjournments are sought on the drop of a hat by the counsel, even though the witness is present in court, contrary to all principles of holding a trial. That apart, after the examination in chief of a witness is over, adjournment is sought for cross-examination and the disquieting feature is that the trial courts grant time. The law requires special reasons to be recorded for grant of time but the same is not taken note of. As has been noticed earlier, in the instant case the cross-examination has taken place after a year and 8 months allowing ample time to pressurize the witness and to gain over him by adopting all kinds of tactics. There is no cavil over the proposition that there has to be a fair and proper trial but the duty of the court while conducting the trial to be guided by the mandate of the law, the conceptual fairness and above all bearing in mind its sacrosanct duty to arrive at the truth on the basis of the material brought on record. If an accused for his benefit takes the trial on the path of total mockery, it cannot be countenanced. The Court has a sacred duty to see that the trial is conducted as per law. If adjournments are granted in this manner it would tantamount to violation of rule of law and eventually turn such trials to a farce. It is legally impermissible and jurisprudentially abominable. The trial courts are expected in law to follow the command of the procedure relating to trial and not yield to the request of the counsel to grant adjournment for nonacceptable reasons. In fact, it is not all appreciable to call a witness for cross-examination after such a long span of time. It is imperative if the examination in chief is over, the cross-examination should be completed on the same day. If the examination of a witness continues till late hours the trial can be adjourned to the next day for cross-examination. It is inconceivable in law that the cross-examination should be deferred for such a long time. It is anathema to the concept of proper and fair trial. The duty of the court is to see that not only the interest of the accused as per law is protected but also*

> *the societal and collective interest is safeguarded. It is distressing to note that despite series of judgments of this Court, the habit of granting adjournment, really an ailment, continues. How long shall we say, "Awake! Arise!". There is a constant discomfort. Therefore, we think it appropriate that the copies of the judgment be sent to the learned Chief Justices of all the High Courts for circulating the same among the learned trial Judges with a command to follow the principles relating to trial in a requisite manner and not to defer the cross-examination of a witness at their pleasure or at the leisure of the defence counsel, for it eventually makes the trial an apology for trial and compels the whole society to suffer chicanery. Let it be remembered that law cannot allowed to be lonely; a destitute."*
>
> (emphasis supplied)

35. The practice of conducting trials on a day to day basis more particularly in important or sensitive cases as was the tradition about thirty years ago has been given a complete go-by. We sincerely believe that it is high time that the courts revert to that practice. For the purpose of reverting to the old practice, it is necessary to understand the current social, political and administrative scenario including the way the Police are functioning. All the High Courts need to constitute a Committee to discuss this issue very seriously for the benefit of their respective district judiciaries.

36. One of the significant factors contributing to delays in the justice system is the discretionary practice of noncontinuous criminal trials, where evidence is heard by the court in piecemeal fashion, with cases effectively spread out over the course of many months or even years. While limited judicial or court resources and a shortage of available court time due to the volume of cases are often cited for the use of this discretionary practice, the costs of non-continuous trials to both parties and to the justice system as a whole can far outweigh the perceived benefits.

Necessity for the High Courts to issue a Circular

37. The Chief Justices of the High Courts may direct their administrative

side to issue a circular to the respective district judiciaries stating as under:

> [1] The proceedings in every inquiry or trial shall be held expeditiously.
>
> [2] When the stage of examination of witnesses starts such examination shall be continued from day-to-day until all the witnesses in the attendance have been examined except for special reasons to be recorded in writing.
>
> [3] When the witnesses are in attendance before the Court no adjournment or postponement shall be granted without examining them, except for special reasons to be recorded in writing.
>
> [4] The Court should not grant the adjournment to suit the convenience of the advocate concerned except on very exceptional grounds like bereavement in the family and similar exceptional reasons duly supported by memo. Be it noted that the said inconvenience of an advocate is not a "Special Reason" for the purpose of bypassing the immunity of Section 309 of the Cr.P.C.
>
> [5] In case of non-cooperation of accused or his counsel, the following shall be kept in mind:
>
> > a. In case of non-cooperation of the counsel, the Court shall satisfy itself whether the non-cooperation is in active collusion with the accused to delay the trial. If it is so satisfied for reasons to be recorded in writing, it may, if the accused is on bail, put the accused on notice to show cause why the bail cannot be cancelled.
> >
> > b. In cases where the accused is not in collusion with lawyer and it is the lawyer who is not cooperating with the trial, the Court may for reason to be recorded, appoint an amicus curiae for the accused and fix a date for proceeding with cross-examination/trial.
> >
> > c. The Court may also in appropriate cases impose cost on the accused commensurate with the loss suffered by the witness including the expenses to attend the court.
> >
> > d. In case when the accused is absent and the witness is present for examination, in that case the Court can cancel the bail of accused if he is on bail. (Unless an application is made on his behalf seeking permission for his counsel to proceed to examine the witness present even in his absence, provided the accused gives an undertaking in writing that, he would not dispute, his identity as a particular accused in

the case.)

[6] The Presiding Officer of each Court may evolve the system for framing a schedule of constructive working days for examination of witnesses in each case, well in advance, after ascertaining the convenience of counsel on both sides.

[7] The summons or process could be handed over to the Public Prosecutor in-charge of the case to cause them to be served on the witnesses, as per schedule fixed by the Court.

This order may be made part of the circular as an annexure.

38. We are informed that the further cross-examination of the victim is now preponed to 24-10-2025.

39. The Public Prosecutor shall ensure that the victim remains present for the further cross-examination.

40. Once the oral evidence of the victim is completed, the Trial Court should make all possible endeavour to see that the other witnesses are examined at the earliest and the trial is completed with judgment by 31-12-2025.

41. With the aforesaid, this petition stands disposed of.

42. It is needless to clarify that the respondent - accused is duty bound to comply with all the conditions imposed in the bail order passed by the High Court and fully cooperate for expeditious disposal of the trial.

43. Pending applications, if any, also stand disposed of.

44. The Registry shall forward one copy each of this order to all the High Courts at the earliest.

.....,J.
(J.B. PARDIWALA)

.....,J.
(K.V.VISWANATHAN)

New Delhi
22.09.2025.