

116

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-63307-2024 (O&M)
Date of decision: 22.01.2025

Sunil Kumar Mahato

... Petitioner

Vs.

Raj Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

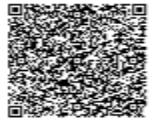
Present: Mr. Vrishank Suri, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking issuance of direction to learned trial
Court to conclude the trial of complaint bearing No.COMI-36903 of 2013
(Annexure P-1), instituted on 19.11.2012, titled as '*Raj Kumar Vs. Shiv Kumar
Sharma and others*', in a time bound manner preferably within a period of six
months.

2. Briefly put, the facts of the case are that the complaint (*supra*) was
instituted with the allegations that a case against co-accused Shiv Kumar was
pending before the Special Judge, CBI, Rohini Court, Delhi and the
respondent-complainant was a witness in the said case. Due to anticipation of

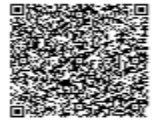
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threats from co-accused Shiv Kumar, the respondent-complainant moved an application before the CBI Court, Delhi, in which a direction was issued to the Senior Superintendent of Police, Ludhiana to look into threat perception, if any, to the respondent-complainant. It is further alleged that on 30.09.2011, when the respondent-complainant was returning back to his home on an Activa, he was stopped by three persons, out of which one person was the petitioner and he allegedly gave a dattar blow on his head, due to which he sustained injuries. It is alleged in the complaint (*supra*) that at the behest of co-accused Shiva Kumar, the respondent-complainant was attacked by the petitioner and two other persons.

3. Learned counsel for the petitioner submits that complaint (*supra*) was instituted on 19.11.2012 and after leading the pre-summoning evidence by the respondent-complainant, the petitioner was summoned vide order dated 14.03.2019 (Annexure P-2) passed by learned trial Court. The petitioner is facing the trial and is appearing on each and every date of hearing, which causes great inconvenience and hardship to him. It is further contended that the complainant (*supra*) is pending for the last more than 12 years and it violates the fundamental right of the petitioner as enshrined under Article 21 of the Constitution of India, which ensure speedy trial and the same is implicit in broad sweep.

4. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, present petition is being decided



in limine without issuing notice to the respondent in order to save judicial time of the Court and also the litigation costs of the respondent.

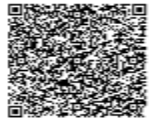
5. Article 21 of the Constitution of India guarantees the right to speedy trial, which is a fundamental right of an accused. The speedy trial of criminal act is one of the basic objectives of the criminal delivery justice system, because long delay can defeat justice. A case should be decided as early as possible, but the basic norms, which ensure justice, cannot be overlooked because it is a common popular proverb that '*justice hurried, justice buried*'. As such, there should be proper balance between basic norms and speedy trial because the main object of every legal system is providing complete justice to all. The right to speedy trial is more vague and generically different concept than other constitutional rights guaranteed to accused persons and cannot be quantified into a specific number of days or months.

6. Keeping in view the peculiar facts and circumstances of the case, present petition is disposed of. However, in view of the ratio laid down by this Court in CRM-M-25963-2023 titled as ***Suresh Kumar and another Vs. The State of Haryana and another, 2023 (2) Law Herald 1498***, personal appearance of the petitioner before learned trial Court is ordered to be exempted, subject to the following conditions:-

i) petitioner shall be represented through his counsel;

ii) shall not delay/stall the trial proceedings;

iii) shall not dispute his identity as accused;



- iv) shall have no objection if the prosecution evidence is recorded in his absence but in the presence of his counsel;*
- v) shall appear before the trial Court as and when required; and*
- vi) any other condition, which the trial Court may impose.*

4. However, learned District & Sessions Judge, Ludhiana is directed to issue necessary directions to learned trial Court for expeditious disposal of the complaint (*supra*).

[HARPREET SINGH BRAR]
JUDGE

22.01.2025
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No