ABC 2025 (II) 1054 SC
ACQUITTAL & BAIL CASES

SUPREME COURT OF INDIA

(Sanjay Karol & Nongmeikapam Kotiswar Singh, JJ.)
Criminal Appeal No. of 2025
(Arising Out Of Special Leave Petition (Crl.) No.10130 of 2025)
Decided On 20 November 2025

ROBERT LALCHUNGNUNGA CHONGTHU @ R L CHONGTHU ***- Appellant(s).***

Versus

STATE OF BIHAR ***\- Respondent (s).***

Law Covered:- ***(A) Code of Criminal Procedure, 1973 – Section 197 (Bharatiya Nagarik Suraksha Sanhita, 2023 – Section 218)– Sanction for Prosecution of Public Servant – Ambit & Scope of – Application of Mind by Sanctioning Authority – Non-Speaking Sanction Order – Held, sanction under Section 197 CrPC is a solemn&sacrosanct act to protect public servants from frivolous prosecution – The order granting sanction must ex facie disclose application of mind to the evidence&material placed – A non-speaking, vague sanction order that does not demonstrate independent consideration by the authority is bad in law&liable to be set aside – Citing Mansukhlal Vithaldas Chauhan v. State of Gujarat – The sanction order in the present case merely recited that the State Government was satisfied on perusal of documents without any substantive reasoning – Such an order fails to satisfy the mandate of Section 197 CrPC – All consequential actions, including the order taking cognizance, are quashed. (Paras 10– 12, 18– 19, 24– 25)***

(B) Code of Criminal Procedure, 1973 – Section 173(8) (Bharatiya Nagarik Suraksha Sanhita, 2023 – Section 193(9))– Further Investigation – Delay in Completion of – Right to Speedy Trial under Article 21 of the Constitution – Scope & Implications of – Held, the right to speedy trial under Article 21 encompasses all stages, including investigation – While no strict, inflexible timelines can be prescribed, investigation cannot continue endlessly without adequate justification – An inordinate, unexplained delay of over a decade in completing further investigation, with no justifiable reason on record, violates the accused's fundamental right to a speedy trial – Citing Abdul Rehman Antulay v. R.S. Nayak, P. Ramachandra Rao v. State of Karnataka,&Sovaran Singh Prajapati v. State of U.P. – The threat of prolonged criminal investigation&trial hanging over an

accused indefinitely amounts to an unreasonable encroachment on personal liberty – Prosecution liable to be quashed on this ground. (Paras 13– 15, 19, 27– 30, 42)

(C) Arms Act, 1959 – Section 13(2A) – Licensing Authority – Discretion to Grant Arms Licence Without Police Verification – Reasonable Time for Police Report – Held, Section 13(2A) of the Arms Act empowers the licensing authority to grant a licence without waiting for a police verification report if the officer in charge of the nearest police station does not send the report within the "prescribed time" – In the absence of a specific timeline prescribed under the Arms Rules, 1962, at the relevant time, the concept of "reasonable time" governed the exercise of this discretion – Citing Collector v. D. Nursing Rao&Collector v. P. Mangamma – The authority must act within a logically sound period – Granting a licence merely two days after requesting a police report, without any specified timeline for submission, cannot be justified as a proper exercise of discretion – However, where the State remains silent on timelines in other cases&the officer has been discharged in departmental proceedings, the issue need not be pursued further for quashing criminal proceedings. (Paras 7– 9, 14– 17, 20)

(D) Code of Criminal Procedure, 1973 – Section 482 & Bharatiya Nagarik Suraksha Sanhita, 2023 – Section 528 – Inherent Powers of High Court – Quashing of Criminal Proceedings – Grounds for – Inordinate Delay in Investigation & Defective Sanction – Held, where a criminal prosecution suffers from two fatal infirmities – a patently defective, non-speaking sanction order under Section 197 CrPC&an inordinate, unexplained delay of over a decade in completing investigation – the continuation of proceedings amounts to an abuse of the process of court – High Court ought to have exercised its inherent powers under Section 482 CrPC to quash the proceedings – Appeal allowed&all proceedings quashed. (Paras 2, 4– 6, 20– 21, 45)

Facts:- *The appellant, an IAS officer, was the District Magistrate-cum-Licensing Authority of Saharsa, Bihar. An FIR was registered in 2005 alleging that he issued arms licences to several persons, including some who were physically unfit or fictitious, without proper police verification, in violation of the Arms Act, 1959,&in furtherance of a criminal conspiracy. After initial investigation, a supplementary chargesheet in 2006 found the allegations against him false. However, in 2007, a request for re-investigation was made, which was permitted by the Chief Judicial Magistrate in 2009 as "further investigation" under Section 173(8) CrPC. A departmental inquiry was initiated in 2015, but the appellant was discharged*

in 2016. A chargesheet was finally filed in August 2020,&the State granted sanction for prosecution under Section 197 CrPC in April 2022. Cognizance was taken in June 2022. The appellant approached the High Court under Section 482 CrPC seeking quashing, which was dismissed, leading to the present appeal.

Law of relief:- ***(i) A non-speaking, vague sanction order that does not demonstrate independent consideration by the authority is bad in law & liable to be set aside.***

(ii) An inordinate, unexplained delay of over a decade in completing further investigation, with no justifiable reason on record, violates the accused's fundamental right to a speedy trial.

Counsel:-

For Appellant(S): *Santosh Kumar, Adv.*

For Respondent(S): *Manish Kumar, Adv.*

Cases Referred:-

1. *Collector v. D. Narsing Rao (Para 8)*
2. *Collector v. P. Mangamma (Para 8)*
3. *State of Gujarat v. Patel Raghav Natha (Para 8)*
4. *Municipal Corpn. of Delhi v. Jagan Nath Ashok Kumar (Para 8)*
5. *Gujarat Water Supply & Sewerage Board v. Unique Erectors (Gujarat) (P) Ltd. (Para 8)*
6. *Labouchere v. Dawson (Para 8)*
7. *Telangana Housing Board v. Azamunnisa Begum (Para 8)*
8. *Gurmeet Kaur v. Devender Gupta (Para 11.1)*
9. *Devinder Singh v. State of Punjab (Para 11.2)*
10. *P.K. Pradhan v. State of Sikkim (Para 11.3)*
11. *R.S. Nayak v. A.R. Antulay (Para 11.4)*
12. *Mohd. Iqbal Ahmed v. State of A.P. (Para 11.4)*
13. *Abdul Rehman Antulay v. R.S. Nayak (Para 14.1)*
14. *Maneka Gandhi v. Union of India (Para 14.1)*
15. *P. Ramachandra Rao v. State of Karnataka (Para 14.2)*
16. *Sovaran Singh Prajapati v. State of U.P. (Para 14.3)*
17. *CBI v. Mir Usman (Para 14.4)*
18. *Babu Singh v. State of U.P. (Para 14.4)*
19. *Sheela Barse v. Union of India (Para 14.4)*
20. *Klopfer v United States (Para 16.1.1)*
21. *Baker v Wingo (Para 16.1.2)*
22. *Doggett v. United States (Para 16.1.3)*
23. *Smith v. Hooley (Para 16.1.3)*
24. *United States v. Ewell (Para 16.1.3)*
25. *R. v. Askov (Para 16.2.1)*
26. *R v. Morin (Para 16.2.2)*

27. R v. Jordan (Para 16.2.3)
28. Miranda v. Arizona (Para 16.3)
29. Prue Bothma v. Petrus Arnoldus Els (Para 16.3.1)
30. Vinay Tyagi v. Irshad Ali (Para 21(i))

JUDGMENT

SANJAY KAROL, J.: - 1. Leave granted.

THE APPEAL

2. The Appellant is aggrieved by the High Court of Judicature at Patna's refusal in exercising its inherent powers under Section 482 of the Code of Criminal Procedure, 1973 (*Hereinafter referred to as 'CrPC*) in terms of judgment and order dated 9th May 2025 (*Impugned judgement*) passed in Criminal Miscellaneous No. 62048 of 2023, wherein the prayer was to quash and order taking cognizance dated 1st June 2022 passed by the learned Chief Judicial Magistrate, Sahasra in connection with Sahasra Sadar P.S Case No. 112 of 2005 dated 24th April 2005.

FACTUAL ASPECTS

3. As can be seen, the genesis of this case is over twenty years old. It is necessary to recapitulate past events in order to appreciate the context in which the impugned judgement is under challenge before us.

I. The Appellant is an officer of the Indian Administrative Services, Bihar Cadre. He was posted as District Magistrate-cum-Licensing Authority, Sahasra, Bihar, on 24 December 2002 and remained in the possession till his transfer to Banka on 11th April 2005.

II. The Ministry of Home Affairs, Government of India passed an order *vide* letter No. 11026/76/2004, directed further streamlining of the procedure of issuance of arms licences. The said letter is extracted hereinafter:

"29th October, 2004

Sub : Streamlining the procedure of issuing Arms license.

Sir,

I am directed to state that large scale issue of licenses has been reported in certain States. In many cases the licences have been issued to non- resident without proper verification and in some cases the licenses have not been issued by the licensing authority. I order to plug the loopholes in the existing procedure of issuing Arms Licence that have come to light, it has been decided to take the step indicated in the

succeeding paragraphs.

All arms licences issued between 1994- 98 from J&K and between September 1998 to February 2001 from Ferojpur district (Punjab) and submitted at the office of District Collector all over the country for re- registration, reissuance or for any other purpose should be verified to ascertain the bonafide of the licenses and genuineness of the license documents.

Under the provisions of Section 13(2A) the licensing authority can make such other enquiry as it considers necessary. Necessary instruction may be issued to the District Magistrate to conduct police verification at the place of his stay during the last 3 years, preceding the date of application.

Arms license for the categories of weapons specified in Schedule- II of the Arms Rules 1962, for which D.M. is the licensing authority and not the officers subordinate to him. It may be stated that there is no provision in the Arms Act, 1959, for delegation of such authority to others for granting arms license.

The licensing authority in the states should be advised to furnish return on the licenses issued on a quarterly basis to the State Home Department for scrutiny on quarterly basis to the State Home Department for scrutiny/Secretary of the Home Department.

A very strict departmental action should be taken wherever any instances of lapse in issuance of arms license comes to the notice of the State Government. The records of all the licenses issued by the licensing authority in the States should be computerized and a mechanism should be put in the place for early warning wherever there is an unprecedent spur in issue of arms license in a particular district.

Action taken in the matters may kindly be intimated to the Ministry.

Yours Faithfully
Director, Security."

III. For compliance of the directions issued in the above quoted extract, one Bal Krishna Jha, ASI was deputed to collect information and during such gathering of information, it was found that 7 persons to whom arms licences had been issued were unverified. The details of

these persons as given in the FIR, lodged upon the statement of the Station House Officer, PS Saharsa, are as under:

1. Omprakash Tiwari S/o Jagtandan Tiwari, R/o patna, presently R/o Chitragupt Nagar, Kayasth Tola, Saharsa.
2. Smt. Rani Durgawati, W/o Omprakash Tiwari, R/o Patna, presently R/o Chitragupt Nagar, Kayasth Tola, Saharsa.
3. Hariom Kumar S/o Jago Singh, Ward No. 15, Bokaro Shankarwar Tola, P.S. Mokama, District- Patna, presently at Shankar Chowk, Saharsa.
4. Abhishek Tripathi, S/o Vishwajevan Tripathi, Village- Rajendra Tola, Balwa Tal, Motihari, at present Kayasth Tola.
5. Uday Shankar Tiwari S/o Jagtanand Tiwari, R/o Patna, at present Chitragupt Nagar, Kayasth Tola, Saharsa.
6. Rajesh Kumar, S/o Keshav Prasad, Village- Chitragupt Nagar, Parmaveer Albert kka Institute & Cultural Arts Center, Saharsa.
7. Madhup Kumar Singh, S/o Shambhu Nath Singh, R/o Rajapatti, Dumra Road, Sitamarhi, at present Gangjala, Saharsa."

The statement in the FIR was that some of these licences had been issued to persons who were not physically capable; the same had been issued in violation of Section 13(2), Arms Act, 1959, with intent to give undue benefit to the applicants, by the appellant, who, at the relevant point in time was District Magistrate- cum- licensing Authority, Sahasra, Bihar. As such, '*the then licensing authority*' was also named as an accused therein. It was stated that the same had been done in furtherance of a criminal conspiracy and abetment at a large scale.

IV. After investigation, chargesheet dated 9th July 2005 was entered wherein one of the accused persons, namely Omprakash Tiwari was sent up for trial whereas investigation against other persons was continued. A supplementary chargesheet dated 13th April 2006 was then filed, wherein, *qua* the appellant it was observed that no offence was made out under the Arms Act

against him, and the allegations levelled were termed *false*'. The complainant recorded his '*no objection*' to such closure report. The relevant extract of the charge sheet is as under :-

"...Resultantly, he could not have been verified and no Offence under Arms Act is made out against FIR accused Sh. R. L. Chongthu, the then District Magistrate, Saharsa. Therefore, the allegation against him have been found to be false. Rest of all the abovenamed Accused persons are on bail from the court. Therefore, the investigation is completing on all points in this case. Therefore, in the present case, I submit Supplementary Chargesheet No. 118/06 dated 13th April, 2006...."

V. The Sub-Divisional Officer of Police, Sadar, Saharsa by letter dated 26th November 2007 addressed to the Chief Judicial Magistrate, Saharsa submitted as follows:

"I. The then District Magistrate, Saharsa- Sh. R.L. Chongthu issued Arms License without getting done verification of name and address of named Accused Sh.Abhishek Tripathi, S/o Vishwajeevan Tripathi, Permanent Address - Shailendra Gupta- Balua Taal, Motihari, District - Champaran. The enquiry of name and permanent address of Abhishek Tripathi was conducted through Superintendent of Police, Motihari. After enquiry, it was found no person in the name of Abhishek Tripathi resides on this address, in whose favour Arms License was issued by the then District Magistrate Sh. Chongthu. Meaning thereby is that the matter of issuing Arms License in favour of a fake person in deliberate manner and by hatching criminal conspiracy without getting done the verification of temporary/ permanent address, has come into the light, in which, the criminal involvement of the then District Magistrate, Saharsa Sh. Chongthu clearly appears.

2. The then Superintendent of Police, Saharsa in his Report No. 3 issued vide his Office Memorandum No. 920/ C.R. dated 11.04.2005, has found the allegation against the then District Magistrate Sh. Chongthu to be false, whereas, in the same Report, it is mentioned to not to verify the alleged Licensee Abhishek Tripathi.

3. Also in Report-3, the Investigating Officer has been ordered to submit chargesheet also against those named accused prons, whose' permanent/ temporary addresses have been found to be correct, which are not as per Rules.

In the light of aforesaid order, the then SDPO, Saharsa Sh.Ashok Kumar Sinha vide Memo No.2558/07 dated 19.09.2007 of this Office, had requested to pass orders for conducting re- investigation on the aforesaid points in the present case, but, the order could not have been received yet. Again, vide Memo No.3547/C.R. dated 24.11.2007 of the Superintendent of Police, Saharsa, it has been directed to conduct investigation on aforesaid points after obtaining order from the Court.

Therefore, it is requested that in the light of aforesaid order, kindly issue order to conduct re-investigation of case on the aforesaid points.

For your kind information.

"On the aforesaid aspects, a request for the re-investigation was resubmitted by letter dated 5th October 2008.

VI. The Chief Judicial Magistrate, Saharsa in an order dated 19th June 2009 observed that an order for re-investigation could not be granted but further investigation was permitted in law, and as such, permitted further investigation under Section 173(8), CrPC.

VII. The General Administration Department, Government of Bihar by letter dated 10th December 2015 asked the Appellant to show cause regarding the issuance of arms licences to a total of 16 accused persons. The Response is as under:

"Letter No. 242
Office of the Divisional Commission
Bhagalpur Division, Bhagalpur (Bihar)

From:
ROBERT L. CHONGTHU
Divisional Commissioner,
Bhagalpur Division Bhagalpur
To
Ashwla Dattatraya Thakare

Additional Secretary
Central Administration Department, Govt, of Bihar, Patna

Bhagalpur dated 23.12.2015

Sub: Allegation against the then District Magistrate, Sarsa relating to irregularly in issuance of Arms License.

Ref: General Administration Department's Letter No. 17049 dt. 10.12.2015.

Sir,

I, with reference to the subject mentioned above I have to say that vide letter No. 17049 dated 10.12.2015, I am asked to submit explanation regarding all 16 persons. It is requested to kindly provide the documents related to sanctioning of arms licences of all 16 persons on the ground that the matter has become old one and I am not able no recollect all the facts and circumstances related to the sanctioning of arms licenses to these 16 persons. It would be really helpful if the above said documents are supplied to me so that I can explain things in proper manner otherwise in absence of these required documents, my explanation would not be proper and complete.

2. That as regards to the earlier papers supplied to me and after perusing the same, it seems to me that various office orders issued from the Ministry of Home Affairs, Government of India are meant for streamlining the procedure of issuing arms licenses which inter alia, state that a decision has been taken to take steps, such as, all arms licenses issued for a period in Jammu Kashmir and Punjab be verified, the District Magistrate should delegate his powers of issuance of license to another officer, the licensing authority be advised to furnish Return on the licenses issues on quarterly basis, the records of licenses should be computerized, licensing authority is required to obtain report from the officer in charge of the nearest police station and if lapses took place then strict departmental proceeding should be taken.

3. That another office order talks about scam occurred in the State of Jammu & Kashmir highlighting the connivance of the District Magistrate, Jammu with

some gun dealers.

4. That support to the circular/office order issued by the Government of India, Ministry of Home Affairs, also categorically serving that while issuance of licenses during my tenure, I have called for the police verification report from the nearest police station in all the cases. Not only this, even reminder was sent to the Sahrsa police station for sending the verification report vide letter no. 667-2/General dated 8.7.2004.

5. That it is further to state that during my tenure, parliamentary election said bye-elections were held in the district which also necessitated the requirement of police verification for all the license no such verification report was ever served or submitted to my office.

6. That from period of proviso of section 13 of Arms Act, 1959, it is apparent that where the officer of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if deems, fit, make such order, after the expiry of the prescribed time, without further waiting for that report.

7. That when the officer in charge of the concerned police station failed to submit the required report then I have issued the licenses to these persons and my action is protected under the provisions of the Arms Act, 1959 as stated hereinabove.

8. That it is pertinent to mention here that my action of issuing was not irreversible and the licenses issued by me have been revoked. Further, the entire circular/office order insists upon the streamlining of the procedure for prevention of misuse of such licenses. There is nothing on the record nor there is any material on record to show that any person having been granted the license, had misused the same during the period of subsistence of licence.

9. That the Arms Act, 1959 provides the safeguard against irregular issuance of license if it is learnt that the license has been obtained by suppressing material information or by providing wrong information. The moment I came to know that there was suppression of material information then immediately. I proceeded to

cancel the licenses and the licenses were accordingly cancelled by me hence, there is no residue effect to such licenses.

10. That in terms of sections 13 & 14 of the Arms Act, 1959 and Rules 51,51-A, 52 and 53 of the Arms Rules, 1962 which deal with grant of arms licenses and police verification is not since qua non for issuance of license.

11. That it is pertinent to mention here that owing to many a reasons, it necessitated the Ministry of Home Affairs to issue circular/office order for streamlining the procedure of issuing arms Licenses vide letter dated 29.10.2004. It is mentioned therein that in order to plug the loopholes in the existing procedure of issuing arms licenses, it has been decided to take steps indicated in the succeeding paragraphs and thereafter, few steps and guidelines have been provided. The humble submission is that the guidelines contained in the said circular would be prospectively used and there cannot be any retrospective effect of the said guidelines. Therefore, the very seeking of explanation on the basis of the guidelines which call for taking strict departmental proceeding would not be applicable in the present case as the licenses have been issued before the issuance of the guidelines.

12. That it is humbly requested to kindly provide the documents related to all 15 persons so that I may be able to give proper reply/explanation as required by your goodwill. It is further prayed to your goodwill not to treat this explanation as final explanation and I reserve the right to file proper explanation expeditiously within a week from the date of receipt of the entire documents related to grant of arms licenses of all these 16 persons.

Yours Faithfully
Sd- (Robert L. Chonghtu)
Divisional Commissioner,
Bhagalpur Division, Bhagalpur"

VIII. The explanation was accepted and the Department discharged the Appellant on 25th February 2016 putting an end to the disciplinary proceedings.

Hence, the chargesheet No.834/2020, after completion of further investigation, was submitted on 31st August 2020.

IX. The State granted sanction under Section 197 CrPC on 27th April 2022. Cognizance of the chargesheet was taken on 1st June 2022. It is against this order that the appellant had approached the High Court, and which resulted in the impugned judgment.

THE IMPUGNED JUDGMENT

4. The High Court rejected the application under Section 482, CrPC observing that various illegalities and irregularities pervaded the issuance of licenses by the appellant, in as much as certain persons who were physically unfit, were issued licenses; in some of the applications approved, the bodyguard of the appellant was listed in the "*column of care*"; in yet others licenses were issued a mere 2 days after calling for the police report, in which time the said report was obviously not furnished. Regarding the departmental proceedings, it was observed that while discharging the appellant, the department had asked him to remain careful in the future which, cannot be equated to exoneration in departmental proceedings. Further, on the aspect of power vested in the authority as per section 13(2A) of the Arms Act, it was held that the power cannot be used and arbitrary and unjust manner. The Court did observe that the Trial Court, keeping in view the many years that had passed since the inception of the case, ought to conclude the trial expeditiously by conducting the same on day- to- day basis.

THE CASE OF THE PARTIES

5. We have heard learned counsel for the parties. The mainstay of the argument on behalf of the appellant is that Section 13 (2A) of the Arms Act vested within him the discretion to grant an arms license even without police verification and all that he did was exercise such discretion in a *bona fide* manner. Secondly, it is submitted that none of the chargesheets even as much as remotely suggest, conspiracy between the appellant and the licensees or any act of corruption on part of the former. This reinforces the *bona fide* exercise of power. Since the alleged misuse of this power under the Arms Act is the standalone charge against the appellant, the fact that he has been discharged in the departmental proceedings acquires importance, as the same is fatal to criminal prosecution on the same facts, is the third limb of the submissions. Fourthly, it is submitted that the chargesheet in which the appellant has eventually been

named has been submitted after an inordinate delay of 15 years that too in the absence of any fresh material/evidence. Fifthly, some of the accused licensees have been acquitted by the High Court by orders dated 5th February 2020 and 23rd February 2024 passed in Criminal Misc No.5536 of 2016, Criminal Misc No. 29456 of 2016 and Criminal Misc No. 63786 of 2021. Next it is urged that the order granting sanction against the appellant is a nonspeaking order and defeats the object of Section 197 CrPC which is to protect an officer against vexatious prosecution. In the end, it is submitted that all the points above make out a case, affirmatively in the appellant's favour as per the grounds mentioned in ***State of Haryana v. Bhajan Lal (1992 Supp. (1) 335)***

6. On the other hand, the case of the State is that the exercise of power by the appellant was abuse of power vested in him since he did not wait for the police verification report and issued licenses to persons of questionable integrity as also those who are physically unfit and even fictitious. About the acquittal of other persons connected to the sequence of events, it is submitted that the case of the appellant is distinct and no benefit on ground of parity can be accorded to him. Regarding the discharge in the departmental proceedings, it is urged that the same is the demonstration of influence of the appellant on two grounds, *one*, that it is inconceivable that an SHO would ignore the orders of the higher officer and thereby not submit such verification report and *two*, that the SHO concerned denied having received any request from the office of the appellant for conducting verification.

ANALYSIS

7. The first argument for us to consider is the scope of Section 13(2A) of the Arms Act. It reads as under:

> **13. Grant of licences.**—(1) An application for the grant of a licence under Chapter II shall be made to the licensing authority and shall be in such form, contain such particulars and be accompanied by such fee, if any, as may be prescribed.
>
> (2) On receipt of an application, the licensing authority shall call for the report of the officer in charge of the nearest police station on that application, and such officer shall send his report within the prescribed time.
>
> (2A) The licensing authority, after such inquiry, if any, as it may consider necessary, and after considering the report received under sub- section (2), shall, subject to the

other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same:

Provided that where the officer in charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for that report. (emphasis supplied)

It flows from the above that calling for a police verification report is mandatory and the same is to be sent to the licensing authority within a prescribed time. What is meant by prescribed has been clarified by Section 2 (g) which defines prescribed to be that which has been described in the rules made under the Arms Act. The rules in vogue at the relevant point in time i.e., 2002- 2004 were the Arms Rules 1962. A perusal thereof reveals that the rules did not prescribe a timeline within which the police was to submit a report or the licensing authority is to either grant or deny a license.

8. It is a generally understood position in law that when a legislation or a rule does not provide for limitation/time limit for a particular aspect, the same is to be governed by the standard of reasonable time. \[See: ***Collector v. D. Narsing Rao***\] ***((2015) 3 SCC 695***). We may also refer to an earlier decision given by this Court in ***Collector v. P. Mangamma, (2003) 4 SCC 488*** as follows:

5. A reasonable period would depend upon the factual circumstances of the case concerned. There cannot be any empirical formula to determine that question. The court/authority considering the question whether the period is reasonable or not has to take into account the surrounding circumstances and relevant factors to decide that question.

6. In State of Gujarat v. Patel Raghav Natha it was observed that when even no period of limitation was prescribed, the power is to be exercised within a reasonable time and the limit of the reasonable time must be determined by the facts of the case and the nature of the order which was sought to be varied. ...It would be hard to give an exact definition of the word "reasonable". Reason varies in its conclusions according to the idiosyncrasy of the individual and the times and circumstances in which he thinks. The reasoning which built up the old scholastic logic stands now like the jingling of a child's toy. But mankind must be satisfied with the reasonableness within reach; and in cases

not covered by authority, the decision of the Judge usually determines what is "reasonable" in each particular case; but frequently reasonableness "belongs to the knowledge of the law, and therefore to be decided by the courts". It was illuminatingly stated by a learned author that an attempt to give a specific meaning to the word "reasonable" is trying to count what is not a number and measure what is not space. It means prima facie in law reasonable in regard to those circumstances of which the actor, called upon to act reasonably, knows or ought to know. \[See Municipal Corpn. of Delhi v. Jagan Nath Ashok Kumar and Gujarat Water Supply & Sewerage Board v. Unique Erectors (Gujarat) (P) Ltd. \] As observed by Lord Romilly, M.R. in Labouchere v. Dawson it is impossible a priori to state what is reasonable as such in all cases. You must have the particular facts of each case established before you can ascertain what is reasonable under the circumstances. Reasonable, being a relative term is essentially what is rational according to the dictates of reason and not excessive or immoderate on the facts and circumstances of the particular case." (emphasis supplied

[***See: Telangana Housing Board v. Azamunnisa Begum, (2018) 7 SCC 346***]

9. Given that at the relevant point in time, no time limit stood prescribed, an alternate interpretation to '*prescribed time*' can be the time specified by the authority seeking the police report in such letter itself. This too, is absent from the record before us. The State and the learned Single Judge have chosen to focus on only one instance. Be whatsoever the contours of the application of doctrine of reasonable time, it only stands to reason that when no time stands clarified it is expected that the Authority may act appropriately within a logically sound period of time. In question are the appellant's actions in so far as 16 licenses are concerned. However, the record only speaks, to perhaps one instance, where a mere two days after the request for the report of police was made, that the license was issued, and the papers in that regard and do not specify the time granted by the appellant/ the appellant's office to furnish the report. It cannot be doubted that the particular instance of application by ***Kanhaiya Kumar Singh and Chandan Kumar Singh*** would not be justified as a proper exercise of discretion when licenses have been granted after only two days, but given that the State has remained silent as to the timeline in other

cases, we close consideration of this issue having recorded as above.

10. Next, let us turn our attention to the sanction issued against the appellant. As already recorded, it is his case that the sanction is vitiated because it is a non-speaking order. The sanction is reproduced below:

"GOVERNMENT OF BIHAR
LAW DEPARTMENT
(Under Rule 53(1)(c) and 32(a) XIX of Executive Rules)
ORDER

Order No. S.P.02/2016-164/J.
Patna, dated 27.04.2022

Whereas, on perusal of the documents and evidences mentioned in Case Diary available in the File No. 06/Aarop- 03/2016 of General Administration Department, Bihar, Patna addressed to the Secretary, Law Department, the State Government is satisfied that prima facie offence of issuance of Arms License in favour of a fake person deliberately under a criminal conspiracy without conducting verification of his permanent/ temporary address, appears to be made out against the Accused of P.S. Saharsa (Sadar) Crime No. 112/2005 dated 26.04.20055 namely Sh. R.L.Chongthu, IAS (1997), the then District Magistrate- cum- Licensing Authority, Saharsa, due to which, the prima facie case for prosecuting him under Section 109, 419, 420, 467, 468,471, 120(B) IPC and Section 30 of Arms Act, is made out against him.

And whereas, according to Section 197 of the Cr.P.C., 1973(Act No.2 of 1973), when any person who is a public servant not removable from his officer save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction.

And Whereas, Sh. R. L. Chongthu, IAS (1997), the then District Magistrate- cum- Licensing Authority, Saharsa is such a public servant and it is alleged that he has committed such an offence while acting or purporting to act in discharge of his official duty.

And now therefore, the State Government do hereby grant Prosecution Sanction against him under the provisions of Section 197 of Cr.P.C. for prosecuting him u/s 109, 419, 420, 467, 468,420,471,120 (B)IPC and Section 30 of Arms Act.

By the orders of Governor of Bihar
(Jyoti Swaroop Shrivastava)
Incharge Secretary to the Government,
Law Department, Bihar.

Memo No. SP -02/2016/164/J. Patna,
December 2025

Dt.27.04.2022"

11. Section 197 which mandates the grant of sanction before commencement of prosecution for public servants, reads:

> "197. Prosecution of Judges and public servants.—(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction \[save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)\]—
>
> (a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;
>
> (b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:..."

The ambit of this Section has been discussed in various judgments of this Court. It will be necessary to refer to them as under:

11.1 In ***Gurmeet Kaur v. Devender Gupta, (2025) 5 SCC 481*** through B.V. Nagarathna, J., this Court observed:

> **25.** As already noted, the object and purpose of the said provision is to protect officers and officials of the State from unjustified criminal prosecution while they discharge their duties within the scope and ambit of their powers entrusted to them. A reading of Section 197CrPC would indicate that there is a bar for a court to take cognizance of such offences which are mentioned in the said provision except with the previous sanction of the appropriate Government when the allegations are made against, inter alia, a public servant.
>
> **26.** There is no doubt that in the instant case the appellant herein was a public servant but the question is, whether, while discharging her duty as a public servant on the relevant date, there was any excess in the discharge of the said duty which did not require the first respondent herein to take a prior sanction for prosecuting the appellant herein...

11.2 The factors to be borne in mind when dealing with a case involving sanction under this section has been, after consideration of number of previous pronouncements crystallised as follows in ***Devinder Singh v. State of Punjab, (2016) 12 SCC 87***.

> 39. The principles emerging from the aforesaid decisions are summarised hereunder:
>
> 39.1. Protection of sanction is an assurance to an honest and sincere officer to perform his duty honestly and to the best of his ability to further public duty. However, authority cannot be camouflaged to commit crime.
>
> 39.2. Once act or omission has been found to have been committed by public servant in discharging his duty, duty it must be given liberal and wide construction so far its official nature is concerned. Public servant is not entitled to indulge in criminal activities. To that extent Section 197 CrPC has to be construed narrowly and in a restricted manner
>
> 39.3. Even in facts of a case when public servant has exceeded in his duty, if there is reasonable connection it will not deprive him of protection under Section 197 CrPC. There cannot be a universal rule to determine whether there is reasonable nexus between the act done and official duty nor is it possible to lay down such rule.
>
> 39.4. In case the assault made is intrinsically connected with or related to performance of official duties, sanction would be necessary under Section 197 CrPC, but such relation to duty should not be pretended or fanciful claim. The offence must be directly and reasonably connected with official duty to require sanction. It is no part of official duty to commit offence. In case offence was incomplete without proving, the official act, ordinarily the provisions of Section 197 CrPC would apply.
>
> 39.5. In case sanction is necessary, it has to be decided by competent authority and sanction has to be issued on the basis of sound objective assessment. The court is not to be a sanctioning authority.
>
> 39.6. Ordinarily, question of sanction should be dealt with at the stage of taking cognizance, but if the cognizance is taken erroneously and the same comes to the notice of court at a later stage, finding to that effect is permissible and such a plea can be taken first time before the appellate court. It may arise at inception itself. There is no requirement that

the accused must wait till charges are framed.

39.7. Question of sanction can be raised at the time of framing of charge and it can be decided prima facie on the basis of accusation. It is open to decide it afresh in light of evidence adduced after conclusion of trial or at other appropriate stage.

39.8. Question of sanction may arise at any stage of proceedings. On a police or judicial inquiry or in course of evidence during trial. Whether sanction is necessary or not may have to be determined from stage to stage and material brought on record depending upon facts of each case. Question of sanction can be considered at any stage of the proceedings. Necessity for sanction may reveal itself in the course of the progress of the case and it would be open to the accused to place material during the course of trial for showing what his duty was. The accused has the right to lead evidence in support of his canes or merits.

39.9. In some cases it may not be possible to decide the question effectively and finally without giving opportunity to the defence to adduce evidence. Question of good faith or bad faith may be decided on conclusion of trial."

11.3 A Bench of three Learned Judges in ***P.K. Pradhan v. State of Sikkim, (2001) 6 SCC 704*** held thus:

"5. The legislative mandate engrafted in sub- section (1) of Section 197 debarring a court from taking cognizance of an offence except with the previous sanction of the Government concerned in a case where the acts complained of are alleged to have been committed by a public servant in discharge of his official duty or purporting to be in the discharge of his official duty and such public servant is not removable from office save by or with the sanction of the Government, touches the jurisdiction of the court itself. It is a prohibition imposed by the statute from taking cognizance. Different tests have been laid down in decided cases to ascertain the scope and meaning of the relevant words occurring in Section 197 of the Code: "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty". The offence alleged to have been committed must have something to do, or must be related in some manner, with the discharge of official

duty. No question of sanction can arise under Section 197, unless the act complained of is an offence; the only point for determination is whether it was committed in the discharge of official duty."

12 The avowed object of sanctions being granted before cognizance is to ensure that the threat of criminal prosecution does not hang over the heads of the officials in discharge of their public duty. At the same time, it is not intended to protect officers who have transgressed the boundaries of their duty for some act/benefit which otherwise would not be termed acceptable. An aspect connected with this object, is that the authority granting sanction does not do so mechanically. This is a layer of protection envisioned by this Section. In other words, when allegations are made, it is not for the authorities to grant sanction simply on the basis of the allegations but it is also that they should examine the materials placed by the investigating agency and come to a *prima facie* satisfaction thereon, about the officer having some or the other involvement in the alleged offence/crime. In ***Mansukhlal Vitthaldas Chauhan v. State of Gujarat, (1997) 7 SCC 622***, this Court held that the order of granting or refusing sanction must show application of mind. The relevant paragraphs thereof are extracted hereunder:

> **"17.** Sanction lifts the bar for prosecution. The grant of sanction is not an idle formality or an acrimonious exercise but a solemn and sacrosanct act which affords protection to government servants against frivolous prosecutions. (See *Mohd. Iqbal Ahmed v. State of A.P.*) Sanction is a weapon to ensure discouragement of frivolous and vexatious prosecution and is a safeguard for the innocent but not a shield for the guilty.
>
> **18.** The validity of the sanction would, therefore, depend upon the material placed before the sanctioning authority and the fact that all the relevant facts, material and evidence have been considered by the sanctioning authority. Consideration implies application of mind. The order of sanction must ex facie disclose that the sanctioning authority had considered the evidence and other material placed before it...
>
> **19.** Since the validity of "sanction" depends on the applicability of mind by the sanctioning authority to the facts of the case as also the material and evidence collected during investigation, it necessarily follows that the sanctioning

> authority has to apply its own independent mind for the generation of genuine satisfaction whether prosecution has to be sanctioned or not. The mind of the sanctioning authority should not be under pressure from any quarter nor should any external force be acting upon it to take a decision one way or the other. Since the discretion to grant or not to grant sanction vests absolutely in the sanctioning authority, its discretion should be shown to have not been affected by any extraneous consideration. If it is shown that the sanctioning authority was unable to apply its independent mind for any reason whatsoever or was under an obligation or compulsion or constraint to grant the sanction, the order will be bad for the reason that the discretion of the authority "not to sanction" was taken away and it was compelled to act mechanically to sanction the prosecution."

Not much more needs to be said. The sanction awarded against the appellant which we have extracted *in toto (supra)* can in our considered view, in no way be said to be reflecting application of mind by the authorities. If sanction is based on what can at best be described as vague statements such as "*on perusal of the documents and evidences mentioned in Case Diary available*", this protection would be obliterated. The remainder of the sanction order touches upon the essence of Section 197 CrPC and the fact that the appellant is a public servant who would be covered thereby. The substance of why a sanction is required was however entirely missed by the sanctioning authority. The same is bad in law and must be, set aside. All consequential actions including the order taking cognizance, therefore would be quashed.

13. There is another ground which needs detailed consideration. The permission for further investigation was given in 2009 and the chargesheet that was submitted as a result thereof was dated 31st August 2020 that is after a period of 11 years. This is after the fact that in the second chargesheet, the investigating authorities have concluded the charges against the appellant to be false. In 2024, the impugned judgment records that even after the cognizance was taken nearly two years ago in 2022, the trial had not moved forward. As we approach the end of 2025, the question to be considered is as to how long this can continue.

14. Various judgments of this Court have emphasised the right to speedy trial as being an important facet of Article 21 of the Constitution. Timely completion of investigation is inherent thereto.

14.1 A Constitution Bench of this Court in ***Abdul Rehman Antulay v. R.S. Nayak, (1992) 1 SCC 225*** observed:

> **"81.** Article 21 declares that no person shall be deprived of his life or liberty except in accordance with the procedure prescribed by law. The main procedural law in this country is the Code of Criminal Procedure, 1973. Several other enactments too contain many a procedural provision. After *Maneka Gandhi v. Union of India, (1978) 1 SCC 248 : AIR 1978 SC 597]* it can hardly be disputed that the 'law' [which has to be understood in the sense the expression has been defined in clause (3)(a) of Article 13 of the Constitution] in Article 21 has to answer the test of reasonableness and fairness inherent in Articles 19 and 14. In other words, such law should provide a procedure which is fair, reasonable and just. Then alone, would it be in consonance with the command of Article 21. Indeed, wherever necessary, such fairness must be read into such law. Now, can it be said that a law which does not provide for a reasonably prompt investigation, trial and conclusion of a criminal case is fair, just and reasonable? It is both in the interest of the accused as well as the society that a criminal case is concluded soon. If the accused is guilty, he ought to be declared so. Social interest lies in punishing the guilty and exoneration of the innocent but this determination (of guilt or innocence) must be arrived at with reasonable despatch — reasonable in all the circumstances of the case. Since it is the accused who is charged with the offence and is also the person whose life and/or liberty is at peril, it is but fair to say that he has a right to be tried speedily. Correspondingly, it is the obligation of the State to respect and ensure this right. It needs no emphasis to say, the very fact of being accused of a crime is cause for concern. It affects the reputation and the standing of the person among his colleagues and in the society. It is a cause for worry and expense. It is more so, if he is arrested. If it is a serious offence, the man may stand to lose his life, liberty, career and all that he cherishes.
>
> **82.** The provisions of the Code of Criminal Procedure are consistent with and indeed illustrate this principle. They provide for an early investigation and for a speedy and fair trial. The learned Attorney General is right in saying that if only the provisions of the Code are followed in their letter

and spirit, there would be little room for any grievance. The fact however, remains unpleasant as it is, that in many cases, these provisions are honoured more in breach. Be that as it may, it is sufficient to say that the constitutional guarantee of speedy trial emanating from Article 21 is properly reflected in the provisions of the Code."

The Court laid down guidelines regarding fair trial. Regarding investigation, which is the relevant facet here, the direction issued is as under:

"...

(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.

(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 impairing the ability of the accused to defend himself, whether by reason of death, disappearance or non-availability of witnesses or otherwise."

14.2 This Court in ***P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578*** while disapproving of setting up of strict timelines by this Court for completion of investigation etc observed:

"…The mental agony, expense and strain which a person proceeded against in criminal law has to undergo and which, coupled with delay, may result in impairing the capability or ability of the accused to defend himself have persuaded the constitutional courts of the country in holding the right to speedy trial a manifestation of fair, just and reasonable procedure enshrined in Article 21. Speedy trial, again, would encompass within its sweep all its stages including investigation, inquiry, trial, appeal, revision and retrial — in short everything commencing with an accusation

and expiring with the final verdict — the two being respectively the *terminus a quo and terminus ad quem* — of the journey which an accused must necessarily undertake once faced with an implication. The constitutional philosophy propounded as right to speedy trial has though grown in age by almost two and a half decades, the goal sought to be achieved is yet a far-off peak. Myriad fact situations bearing testimony to denial of such fundamental right to the accused persons, on account of failure on the part of prosecuting agencies and the executive to act, and their turning an almost blind eye at securing expeditious and speedy trial so as to satisfy the mandate of Article 21 of the Constitution…."

14.3 Just recently, a bench of three Judges of this Court in ***Sovaran Singh Prajapati v. State of U.P., 2025 SCC OnLine SC 351*** (*including one of us, Sanjay Karol J.*) after considering number of pronouncements, culled out the features of fair trial. The third point mentioned therein is important here. It reads, "*Process of investigation and trial must be completed with promptitude.*"

14.4 Another recent instance was in the case ***CBI v. Mir Usman 2025 SCC OnLine SC 2066*** wherein this Court held:

"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., (1978) 1 SCC 579 : 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, (1986) 3 SCC 632 : (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 is liable to be quashed."

15. Moving further, it is to be noted that this aspect of prompt investigation has received statutory recognition as well in the CrPC, which of course, is the comprehensive code laying down detailed procedure is for stages of investigation, trial and appeal among other things. It must be stated that statutory recognition of prompt investigation is a pre- constitutional stipulation. During the colonial period, the Code of Criminal Procedure, 1861, and its immediate successor, the Code of Criminal Procedure, 1872, conceived the process of criminal investigation as a domain of exclusive police competence, characterized by minimal judicial supervision. These early procedural frameworks vested extensive autonomy in the police establishment, leaving investigations largely beyond the reach of magisterial control, and notably omitted any statutory timelines for their completion. The institutional foundation for this arrangement lay in the Police Act, 1861, which served as the principal legal instrument governing investigative powers and responsibilities. Although the police operated nominally under the "*general control and direction*" of the District Magistrate, in practice, the investigation of offences was conducted independently within the police hierarchy, reflecting the colonial state's preference for an executive, rather than judicially mediated, model of law enforcement.

This design is made explicit in the text of the Police Act itself. Reference may made to Section 5 which granted the police authorities a power of the magistrate and 23 which delineated the core duties of police officers in notably broad terms. Sections 25. 26 and 27 establish that the rule of the Magistrate was limited to certain spheres only, for instance dealing with property.

Read together, these provisions reveal a conception of policing that was investigative, preventive, and executive in nature, with the judiciary occupying a passive and peripheral role. The Magistrate's function under the Codes of 1861 and 1872 was confined largely to receiving police reports or taking cognizance of completed investigations, rather than directing or monitoring their course. It was only with the advent of later reforms - *first*, through the Code of Criminal Procedure, 1898, and *subsequently* under the Code of 1973 - that the architecture of criminal procedure began to incorporate judicial control and procedural accountability, through provisions such as Sections 61, 167 and 173(1) of the 1898 Code and 156(3), 167, and 173(1), 173(2) of the 1973 Code, which introduced oversight mechanisms (in Section 156(3) and 167) and prescribed reasonable limits (in Section 173(1), 173(2)) for the duration of investigations. In

its latest avatar, the legislation codifying criminal procedure i.e. BNSS 2023, also provides similar timelines under Sections 187, 193, 230, 250, 251,262, 263 etc.

16. At this juncture, we would not be out of place to refer as to how other jurisdictions provide for and deal with speedy trial, in same and similar terms as has been held by this Court.

16.1 In the United States of America, the Sixth Amendment to the Constitution, introduced by the Bill of Rights, 1791 provides:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

The following cases demonstrate the application of this constitutional enshrinement

16.1.1 Earl Warren, CJ wrote for a unanimous Court in ***Klopfer v United States (386 U.S. 213 (1967)*** as under:

> "We hold here that the right to a speedy trial is as fundamental as any of the rights secured by the Sixth Amendment. That right has its roots at the very foundation of our English law heritage. Its first articulation in modern jurisprudence appears to have been made in Magna Carta (1215), wherein it was written, "We will sell to no man, we will not deny or defer to any man either justice or right"; ' but evidence of recognition of the right to speedy justice in even earlier times is found in the Assize of Clarendon (1166).' By the late thirteenth century, justices, armed with commissions of gaol delivery and/or oyer and terminer " were visiting the countryside three times a year." These justices, Sir Edward Coke wrote in Part II of his Institutes, "have not suffered the prisoner to be long detained, but at their next coming have given the prisoner full and speedy justice, ... without detaining him long in prison." 12 To Coke, prolonged detention without trial would have been contrary to the law and custom of England; " but he also believed that the delay in trial, by itself, would be an improper denial of justice. In his explication of Chapter 29 of the Magna Carta, he wrote

that the words "We will sell to no man, we will not deny or defer to any man either justice or right" had the following effect:

"And therefore, every subject of this realme, for injury done to him in bonis, terris, vel persona, by any other subject, be he ecclesiasticall, or temporall, free, or bond, man, or woman, old, or young, or be he outlawed, excommunicated, or any other without exception, may take his remedy by the course of the law, and have justice, and right for the injury done to him, freely without sale, fully without any denial, and speedily without delay."

16.1.2 In ***Baker v Wingo, 407 US 514 (1972)*** the Court, consolidating the tests that were already in application by the lower courts, laid down a four pronged test, commonly known as the Baker Test. The Court is to consider- the length of the delay, the reason for the delay, when the defendant asserted his right to speedy trial, and the prejudice suffered by the defendant as a result of the delay.

16.1.3 In ***Doggett v. United States, 1992 SCC OnLine US SC 94*** the Court was concerned with the case in which an alleged drug peddler was indicted for conspiracy to distribute cocaine. The accused had apparently fled the jurisdiction of the United States. Even though the information of the outstanding arrest warrant had been sent to all posts of the United States Customs, he could only be arrested 6 years after his return to the country, and in total, 8 1/2 years after his indictment. Souter J., for the majority held:

"...We have observed in prior cases that unreasonable delay between formal accusation and trial threatens to produce more than one sort of harm, including "oppressive pretrial incarceration," "anxiety and concern of the accused," and "the possibility that the \[accused's\] defense will be impaired" by dimming memories and loss of exculpatory evidence. *Barker, 407 U. S., at 532; see also Smith v. Hooley, 393 U. S. 374, 377- 379 (1969); United States v. Ewell, 383 U. S. 116, 120 (1966)*. Of these forms of prejudice, "the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system." 407 U. S., at 532. Doggett claims this kind of prejudice, and there is probably no other kind that he can claim, since he was subjected neither to pretrial detention nor, he has successfully contended, to awareness of unresolved charges against him."

...Our speedy trial standards recognize that pretrial delay is often both inevitable and wholly justifiable. The government may need time to collect witnesses against the accused, oppose his pretrial motions, or, if he goes into hiding, track him down. We attach great weight to such considerations when balancing them against the costs of going forward with a trial whose probative accuracy the passage of time has begun by degrees to throw into question. See *Loud Hawk, supra*, at 315- 317. Thus, in this case, if the Government had pursued Doggett with reasonable diligence from his indictment to his arrest, his speedy trial claim would fail. Indeed, that conclusion would generally follow as a matter of course however great the delay, so long as Doggett could not show specific prejudice to his defense."

16.2 Next, we turn our attention to Canada. Section 11 under the Canadian Charter of Rights and Freedoms houses a total of nine rights. For the instant purposes, (a) and (b) are relevant

"11. Any person charged with an offence has the right
(a) to be informed without unreasonable delay of the specific offence;
(b) to be tried within a reasonable time"

16.2.1 The case of ***R. v. Askov [1990] 2 SCR 1199*** saw the Supreme Court of Canada holding that:

"The court should consider a number of factors in determining whether the delay in bringing the accused to trial has been unreasonable: (1) the length of the delay; (2) the explanation for the delay; (3) waiver; and (4) prejudice to the accused. The longer the delay, the more difficult it should be for a court to excuse it, and very lengthy delays may be such that they cannot be justified for any reason. Delays attributable to the Crown will weigh in favour of the accused. Complex cases, however, will justify delays longer than those acceptable in simple cases. Systemic or institutional delays will also weigh against the Crown. When considering delays occasioned by inadequate institutional resources, the question of how long a delay is too long may be resolved by comparing the questioned jurisdiction to others in the country. The comparison of similar and thus comparable districts must always be made with the better districts, not the worst. The comparison need not be too precise or exact; rather, it should look to the appropriate

ranges of delay in determining what is a reasonable limit. In all cases it will be incumbent upon the Crown to show that the institutional delay in question is justifiable. Certain actions of the accused, on the other hand, will justify delays. A waiver by the accused of his rights will justify delay, but the waiver must be informed, unequivocal and freely given to be valid.

16.2.2 Just two years later, the Court in ***R v. Morin, [1992] 1 SCR 771*** in an attempt to refine the holding in ***Askov,*** (supra) held that institutional delays would not on their own, constitute a violation of section 11 (b) of the Charter. The factors to be considered were expanded as hereinbelow, and then came to be known as the ***Morin Framework:***

"The general approach to a determination of whether the s. 11(b) right has been denied is not by the application of a mathematical or administrative formula but rather by a judicial determination balancing the interests which the section is designed to protect against factors which inevitably lead to delay. The factors to be considered are: (1) the length of the delay; (2) waiver of time periods; (3) the reasons for the delay, including (a) inherent time requirements of the case, (b) actions of the accused, (c) actions of the Crown, (d) limits on institutional resources and (e) other reasons for delay; and (4) prejudice to the accused."

16.2.3 In ***R v. Jordan, [2016] 1 SCR 631*** which is a case almost a quarter- century after the ***Morin Framework,*** the Court recognised various issues with implementation thereof in the following terms

"The *Morin* framework for applying s. 11(b) has given rise to both doctrinal and practical problems, contributing to a culture of delay and complacency towards it. Doctrinally, the *Morin* framework is too unpredictable, too confusing, and too complex. It has itself become a burden on already over- burdened trial courts. From a practical perspective, the *Morin* framework's after- the- fact rationalization of delay does not encourage participants in the justice system to take preventative measures to address inefficient practices and resourcing problems."

Keeping these issues in view, the Court then directed:

"At the heart of this new framework is a presumptive ceiling beyond which delay - from the charge to the actual or anticipated end of trial is presumed to be unreasonable,

unless exceptional circumstances justify it. The presumptive ceiling is 18 months for cases tried in the provincial court, and 30 months for cases in the superior court (or cases tried in the provincial court after a preliminary inquiry). Delay attributable to or waived by the defence does not count towards the presumptive ceiling.

Once the presumptive ceiling is exceeded, the burden is on the Crown to rebut the presumption of unreasonableness on the basis of exceptional circumstances. If the Crown cannot do so, a stay will follow. Exceptional circumstances lie outside the Crown's control in that (1) they are reasonably unforeseen or reasonably unavoidable, and (2) they cannot reasonably be remedied.

It is obviously impossible to identify in advance all circumstances that may qualify as exceptional for the purposes of adjudicating a s. 11(b) application. Ultimately, the determination of whether circumstances are exceptional will depend on the trial judge's good sense and experience. The list is not closed. However, in general, exceptional circumstances fall under two categories: discrete events and particularly complex cases.

If the exceptional circumstance relates to a discrete event (such as an illness or unexpected event at trial), the delay reasonably attributable to that event is subtracted from the total delay. If the exceptional circumstance arises from the case's complexity, the delay is reasonable and no further analysis is required.

An exceptional circumstance is the only basis upon which the Crown can discharge its burden to justify a delay that exceeds the ceiling. The seriousness or gravity of the offence cannot be relied on, nor can chronic institutional delay. Most significantly, the absence of prejudice can in no circumstances be used to justify delays after the presumptive ceiling is breached. Once so much time has elapsed, only circumstances that are genuinely outside the Crown's control and ability to remedy may furnish a sufficient excuse for the prolonged delay."

16.3 The next example we take is from the Republic of South Africa. (*The Constitution OF THE REPUBLIC OF SOUTH AFRICA, 1996- https://www.justice.gov.za/constitution/SAConstitution-web-eng.pdf)* Article 35 of its Constitution is titled "*Arrested, detained and accused*

persons". Article 35(1) enshrines, among other things, what are famously known as the *Miranda Rights* after the decision of the US Supreme Court in ***Miranda v. Arizona, 384 U.S. 436 (1966)***. Thereafter, Article 35(2) provides for prisoners' rights and relevant for the present discussion, Article 35(3) provides for *fair trial*'. Therein, it is stipulated as hereunder:

> "(d) to have their trial begin and conclude without unreasonable delay"

16.3.1 In ***Prue Bothma v. Petrus Arnoldus Els, [2009] ZACC 27*** the constitutional court held as under:

> "[32] Major pre- trial abuses by the state are now firmly prohibited by the Constitution.
>
> It is no accident that section 35 of the Constitution, which deals with arrested, detained and accused persons, is by far the longest section in the Bill of Rights. It sets out precise protections against treating people in arbitrary ways after they have been placed under arrest. One that becomes operative as soon as someone becomes an accused person is the right to have the trial begin and conclude without unreasonable delay.
>
> [33] Although section 35(3) does not deal expressly with pre- trial delay, it must be construed and understood in the light of the value accorded to human dignity and freedom in our Constitution.22 Freedom is protected by section 12 of the Constitution."

17. The inescapable conclusion arrived at from the above discussion in the Indian context, is that there has been an evolution in legislative wisdom over the years and the criminal procedure have moved from a period of no timelines and minimal judicial interventions/oversight to progressively more oversight and recognition of the need to conclude investigations in time. It may be true that no strict timelines are provided in the CrPC, but it is equally so that investigations are to be completed in reasonable time.

18. The discussion regarding other countries also leads us to a similar conclusion. The Supreme Court of Canada has although given timelines, it has also recognised that the possibility of extension of the said timeline is open. The four- prong test as in ***Baker,*** the ***Askov - Morin*** framework that we have discussed above, has a subjective element, which keeping in view the realities of the Indian judicial system, is the only option that can be practically applied. Strict timelines, if laid down would be in ignorance of ground realities.

19. Coming back to the present case, why the investigation in this case took more than a decade to be completed is lost on us. Apparently, it was found that the licenses issued by the appellant were also issued to a fictitious person even at the time when the order for further investigation was taken. Out of the 16 accused persons one person stood charge-sheeted in terms of the *first* chargesheet and the remaining, excluding the appellant and one Abhishek, were charge-sheeted by way of the *second* chargesheet. When only the actions of the appellant were subject matter of investigation by the time permission was taken as above - 11 years is quite obviously a timeline afflicted by delay. No reason is forthcoming for this extended period either in the chargesheet or at the instance of the Court having taken cognizance of such chargesheet. In other words, the appellant has had the cloud of a criminal investigation hanging over him for all these years. The judgments above referred to *supra* hold unequivocally that investigation is covered under the right to speedy trial and it is also held therein, that violation of this right can strike at the root of the investigation itself, leading it to be quashed. At the same time, it must be said that timelines cannot be set in stone for an investigation to be completed nor can outer limit be prescribed within which necessarily, an investigation must be drawn to a close. This is evidenced by the fact that further investigation or rather permission therefor, can be granted even after commencement of trial. [See: ***Rampal Gautam v The State, Criminal Appeal @ SLP (Crl.) 7968 of 2016]*** Where though, Article 21 would be impacted would be a situation where, like in the present matter, no reason justifiable in nature, can be understood from record for the investigation having taken a large amount of time. The accused cannot be made to suffer endlessly with this threat of continuing investigation and eventual trial proceedings bearing over their everyday existence.

CONCLUSION AND DIRECTIONS

20. On this count, prosecution against the appellant is liable to be quashed. The conclusion is that even though, in the one case that has been consistently highlighted by the State, it cannot be said that the appellant acted within the scope of authority as given by Section 13(2A) of the Arms Act, but given that the administrative authorities have already discharged him, that issue need not be taken further. On the issue of sanction being improper and large delay in filing of chargesheet as also consequent action, we have decided in favour of the appellant.

The appeal is accordingly allowed.

December 2025

21. Before parting with this matter, we deem it fit to issue the following directions:

(i) In view of ***Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762- See para 49*** it can be seen that the 'leave of the court' to file a supplementary chargesheet, is a part of Section 173(8) CrPC. That being the position, in our considered view, the Court is not rendered functus officio having granted such permission. ***Since the further investigation is being made with the leave of the Court, judicial stewardship/control thereof, is a function which the court must perform.***

(ii) Reasons are indispensable to the proper functioning of the machinery of criminal law. They form the bedrock of fairness, transparency, and accountability in the justice system. ***If the Court finds or the accused alleges (obviously with proof and reason to substantiate the allegation) that there is a large gap between the first information report and the culminating chargesheet, it is bound to seek an explanation from the investigating agency and satisfy itself to the propriety of the explanation so furnished.***

The direction above does not come based on this case alone. This Court has noticed on many unfortunate occasions that there is massive delay in filing chargesheet/taking cognizance etc. This Court has time and again, in its pronouncements underscored the necessity of speedy investigation and trial as being important for the accused, victim and the society. However, for a variety of reasons there is still a lag in the translation of this recognition into a reality.

(ii) While it is well acknowledged and recognised that the process of investigation has many moving parts and is therefore impractical to have strict timelines in place, at the same time, the discussion made in the earlier part of this judgement, clearly establishes that investigations cannot continue endlessly. The accused is not out of place to expect, after a certain point in time, certainty- about the charges against him, giving him ample time to preparing plead his defence. ***If investigation into a particular offence has continued for a period that appears to be unduly long, that too without adequate justification, such as in this case, the accused or the complainant both, shall be at liberty to approach the High Court under Section 528 BNSS/482 CrPC,***

seeking an update on the investigation or, if the doors of the High Court have been knocked by the accused, quashing. It is clarified that delay in completion of investigation will only function as one of the grounds, and the Court, if in its wisdom, decides to entertain this application, other grounds will also have to be considered.

(iv) Reasons are not only important in the judicial sphere, but they are equally essential in administrative matters particularly in matters such as sanction for they open the gateway to greater consequences. Application of mind by the authorities granting or denying sanction must be easily visible including consideration of the evidence placed before it in arriving at the conclusion.

Pending application(s) if any, shall stand(s) disposed of.

***Result*:-** Appeal allowed. Impugned judgment of the High Court set aside. All criminal proceedings against the appellant arising from Saharsa Sadar P.S. Case No. 112 of 2005, including the order taking cognizance dated 01.06.2022 & the sanction order dated 27.04.2022, are quashed.
