

MHAH220021352021



**S.C.C. No. 902/2021**

State of Maharashtra

Vs.

Samir Kureshi and Anr.

**ORDER BELOW EXH.1**

(Passed on 08/08/2024)

Perused the whole record. Matter is more than 2 years 9 months old. The plea of the accused was recorded on 29/08/2022 below Exh 12. It has been more than 1 years 11 months that plea of the accused were recorded. The Court suo-moto ordered issuance of prosecution witnesses by order dated 20/09/2022 below Exh. 01. Thereafter, the Court again ordered issuance of witness summons to P.W. No. 1 to 4 by an order dated 30/12/2022 below Exh. 01. As per Exh. 17, the informant (PW.1) received summons and B.W. was issued against him by an order dated 29/05/2024 below Exh. 01.

2. It seems prosecution/police machinery is disinterested and no report being filed in the Court. This is more than 2 years 9 months old matter. No seriousness is shown by the prosecution to secure presence or prosecution witnesses.

3. In **Moti Lal Saraf Vs. State of Jammu & Kashmir & Anr.** (AIR 2007 SC 56) the Hon'ble Supreme Court of India observed that right to speedy trial flowing from Article 21 of the Constitution of India encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and re-trial. Undue delay may well result in impairment of the ability of the accused to defend himself, whether an account of death, disappearance, nonavailability of witnesses. It is the bounden duty of the court and the prosecution to prevent unreasonable delay.

4. In the present case it can be observed that the police machinery is

unable to served summons. All the witnesses are police personnel except for the panch witnesses. The matter is prolonged unnecessarily due to fault of the prosecution to secure presence of the prosecution witnesses. It is observed that this is not a new matter but the matter which is more than 2 years 9 months old. Hence, it is important to direct the prosecution to secure the presence of the prosecution witnesses. Hence, I pass the following order:

**ORDER**

1. Reissue witness summons to P.W.2 to P.W.7 through Deputy Superintendent of Police, Karjat, Dist. Ahmednagar.
  
2. Prosecution/Ld. A.P.P. is directed to take steps to secure presence of the prosecution witnesses and conduct the matter. Failing which the evidence of the prosecution will be closed on the next date.

**Place:** Karjat  
Dist. Ahmednagar  
**Date :** 08/08/2024

( **Rohan Vijaykumar Thayil** )  
Judicial Magistrate, First Class,  
Karjat, Dist. Ahmednagar  
Court No.2