

4th.

127  
D.S.

SHR



IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

M.C.C.No. 3529 of 1994

Respondent  
(in jail since  
15-12-1991)

: Smti Chandrakant Shrivastava R.B. Smti  
aged about 30 years, Industrialist,  
resident of A-02, Amanabh Cr. Dist.,  
presently at District Jail, Jabalpur.

versus

Respondent

: The State of M.P.

ACCUSED OF OFFENCE U/S 120B READ WITH SECTION 302 I.P.C. IN

APPLICATION FOR BAIL U/S 439 Cr.P.C. IN NO. 1201/92 U/S

439 Cr.P.C. HAVING BEEN DISMISSED ON 10-1-1992 BY HON'BLE

J. SHUKLA J. IN NO. 1201/92 U/S 439 Cr.P.C. HAVING

BEEN REOPENED ON 26-08-1992 WITH PERMISSION OF HON'BLE

SACHIN CHANDRA J. TO FILE A PETITION FOR BAIL U/S

APPLICATION U/S 439 Cr.P.C. HAVING BEEN DISMISSED ON 29-6-94

WITH PERMISSION OF HON'BLE J. SHUKLA J.

The petition, above mentioned

Order in order sheet

29-9-1994



मामला क्रमांक

सन् 199

आवारा नं (पूर्वानुबन्ध)

अज्ञात रहित फाटे

कावलीन मामलो में डिप्टी सत्रिद्वारे  
के प्रतिम आदेश

N. Cr. C. 3529/94.

Petitioner by Shri Rajendra Singh.

State by Shri S.L. Saxena.

Counsel for the parties to the petition heard.

It has been argued for the petitioner that all the alleged conspirators who are alleged to be involved in conspiracy to commit murder of Shankar Gaha Niyogi, have been released on bail except the present petitioner. Therefore, since the petitioner is also said to be the conspirator, he also deserves to be released on bail.

The only circumstance, it is argued, alleged to be appearing against the present accused-petitioner is that during the investigation of the case he had not surrendered before the police and that from the judicial custody in the D.K. Hospital, Raipur, he allegedly absconded. Regarding the second allegation, there is a trial pending against him and in the said case, the most material witness i.e. the senior police constable, who was appointed a guard to keep watch on the accused-petitioner, had been given up and the second constable has not so far made appearance in the trial Court. It cannot be said that the petitioner No. 1 actually absconded. The contention of the present petitioner is that he was abducted by the police officials so that he may not be released on bail. Regarding not surrendering before the



129

उच्च न्यायालय, मध्य प्रदेश, जबलपुर

सामान्य क्रमांक

सन् 199

आदेश पत्रक (पूर्वानुवर्ध)

आदिवासी  
पदेय क्रमांक

हस्ताक्षर सहित पत्रक

कार्यालयीन मानकी के द्वारा संजुक्त  
के अधीन कार्य

police, it has to be seen that the present petitioner had filed an application for being released on bail under section 438, Cr.P.C., which petition was pending. Under the said circumstance, he did not surrender before the police. Further it is a fact of common knowledge that people do not feel happy in surrendering to the custody of police because of the probability of third degree method being applied to them.

In reply, it has been submitted that the case against the present petitioner stands on a different footing because, not only he was one of the conspirators in planning the commission of the said offence but also fully executed the said plan of committing murder and thus short of committing the murder of Shri Niyogi himself, he did everything in seeing to it that Shri Niyogi was murdered. It has further to be seen that the present accused-petitioner was absconding from judicial custody and as such, bail should not be granted to him.

I agree with the submission made by the learned counsel for the respondent that the case against the present accused-petitioner stands on somewhat different footing than the case against the other co-accused/conspirators, who have been released on bail. Add to it, it is alleged that the

26

27

130

उच्च न्यायालय, मध्यप्रदेश, जबलपुर

मामला क्रमांक

सन् 199

आवेग पत्रक (पूर्वानुबन्ध)

दिनांक  
पत्रमांक

इसका संदर्भ क्रमांक

कानूनकीन मामला में दिष्टी रजिस्टार  
के अन्तर्गत पत्रिका

N. Cr. 3524/54.

petitioner had been absconding during investigation as well as allegedly absconded from judicial custody as well. It has also to be seen that in the revision filed by the co-accused Moolchand Shah, it has been directed that the relevant Sessions Trial be concluded as early as it may be possible and preferably within a reasonable period of six months.

Looking to the said direction, in my opinion, no case for releasing the accused-petitioner is made out and, therefore, the present petition is rejected.

Sd/- R. P. Awasthy  
JUDGE

High Court of Madhya Pradesh  
Jabalpur

High Court of Madhya Pradesh  
Jabalpur