

ITEM NO.102

COURT NO.2

SECTION II-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal Nos.1667-1668/2021

IRFAN @ BHAYU MEVATI

Appellant(s)

VERSUS

STATE OF MADHYA PRADESH

Respondent(s)

(FOR ADMISSION and I.R.; IA No.163432/2021 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No.163435/2021 - FOR EXEMPTION FROM FILING O.T.; and, I.A. No.34041 OF 2022 - APPLICATION SEEKING PERMISSION FOR A MITIGATION INVESTIGATOR)

WITH

CrI.A. No.220/2022 (II-A)

(IA No.17921/2022 - FOR EXEMPTION FROM FILING AFFIDAVIT; IA No.17920/2022 - FOR EXEMPTION FROM FILING O.T.; and, IA No.17922/2022 - FOR PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 29-03-2022 These matters were called on for hearing today.

## CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

## Counsel for the Parties:

Mohd. Irshad Hanif, AOR  
Mr. Shreya Rastogi, Adv.  
Ms. Sakshi Jain, Adv.  
Ms. Trisha Chandran, Adv.  
Mr. A.R. Siddiqui, Adv.  
Mr. Danish Sher Khan, Adv.

Mr. Arvind Kumar Shukla, Adv.  
Ms. Reetu Sharma, AOR  
Mr. Hifzur Rehman Khan, Adv.  
Mr. Nihal Ahmad, Adv.  
Ms. Neena Shukla, Adv.  
Mr. Amit Kumar, Adv.  
Mr. Shantanu Shukla, Adv.  
Ms. Anu Singla, Adv.  
Mr. Tushar Swami, Adv.  
Mr. Vasu Chaudhary, Adv.  
Mr. Kavi Rajpal, Adv.

Mr. Pashupathi Nath Razdan, AOR  
Mr. Mirza Kayesh Begg, Adv.  
Mr. Amandeep, Adv.  
Ms. Sneha Bairwa, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

I.A. No.34041 OF 2022 in Criminal Appeal Nos.1667-1668/2021

1. Notice was issued on this Interlocutory Application on 22.03.2022 whereafter response has been filed on behalf of the State of Madhya Pradesh.

2. Considering the averments in the application and the response of the State Government, we grant following prayers made in the application:

- "a. Grant Ms. C.P. Shruthi permission to visit Central Jail, Ujjain and conduct in-person interviews with the applicant Irfan @ Bhayyu Mevati.
- b. Direct the Central Jail, Ujjain, that for the sake of confidentiality these interviews be conducted in a separate space without any prison staff/official being at earshot distance of the applicant.
- c. Grant Ms. C.P. Shruthi permission to record the interviews conducted by means of an audio recorder in the separate interviewing space, or alternatively, grant permission to allow a person nominated by Ms. C.P. Shruthi to accompany her to take notes during the interview.
- d. Direct the Central Jail, Ujjain to grant Ms. C.P. Shruthi access to all records pertaining to the applicant including but not limited to medical records, jail conduct, work done or education pursued in Central Jail, Ujjain etc."

3. To similar effect, requests have been made on behalf of the other accused/appellants. Without insisting on any formal application in writing, we proceed to grant similar relief to the other accused/appellants. The name of the person who may be allowed "in-person interviews" with the concerned accused/appellants be given in the Registry whereafter appropriate permission can be issued in the name of such person.

4. Having granted the relief as prayed for, normally nothing further need be done in the matter. However, the issues raised in the application and the submissions made at the bar make us record following:-

- A. As laid down by this Court in *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684 and in cases thereafter, every circumstance which has the potential of being a mitigating circumstance, while considering whether death sentence be imposed or not, must necessarily be considered by the Court. In order to assist the Court in making an informed decision, certain inputs either in the form of a Report of a Probation Officer or the circumstances which the defence may seek to highlight, must also be gone into.
- B. The Analysis and the Report made by a Probation Officer may, at times, not consider the complete profile of the accused and may be dependent upon

the interviews which the Probation Officer may have had almost at the fag end of the trial.

C. On the other hand, if a competent person on behalf of the defence is given the facility of interviewing the accused right at the beginning of the trial, a comprehensive analysis can then be projected at a stage when the matter is considered from the standpoint whether death sentence be imposed or not.

D. These observations are purely tentative and recorded only to facilitate the kind of hearing that this application may require.

5. In order to facilitate discussion on the point, the Registry is directed to convert and register Interlocutory Application No.34041 of 2022 as an independent Writ Petition (Criminal), which may be separated and segregated from Criminal Appeal Nos.1667-1668 of 2021 and other connected matters.

In order to have completeness in the matter, before we think of laying down any norms or guidelines, we deem it appropriate to issue notice to the learned Attorney General for India.

Let notice be issued to Member Secretary, National Legal Services Authority (NALSA) who may present the view on behalf of the NALSA as well.

We also appoint Mr. Siddhartha Dave, learned Senior Advocate who may be assisted by Mr. K. Parameshwar, learned Advocate of this Court as *Amicus Curiae* to assist this Court in the matter.

6. List the Writ Petition for further consideration on 22.04.2022.

Criminal Appeal Nos.1667-1668/2021; and, Criminal Appeal No.220 of 2022.

7. At the request of the learned counsel appearing for the accused/appellants, these matters are adjourned to 19.07.2022 for final disposal.

(MUKESH NASA)  
COURT MASTER

(VIRENDER SINGH)  
BRANCH OFFICER