

EXP. 5-7-02  
402 Ref

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Petition  
Copy of ~~Order Sheet~~

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

2082

MISC.CRI.CASE NO. OF 1995

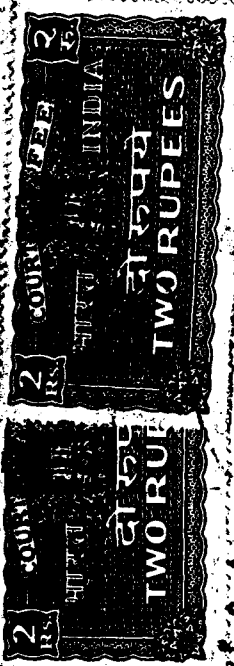
Gyan Prakash Mishra, son of  
Chhuttan Mishra, aged 28 years,  
resident of Steel Nagar, Camp-1,  
Bhilai, District Durg.

...PETITIONER

VERSUS

The State of Madhya Pradesh,  
through Central Bureau of  
Investigation (Niyogi murder case),  
New Delhi, through Supdt. of Police,  
C.B., Madan Mahal, Jabalpur.

...RESPONDENT



R. to D.R.

Cl. 17/4

PETITION FOR BAIL UNDER SECTION 439 OF THE CODE OF  
CRIMINAL PROCEDURE FOR RELEASE ON BAIL IN SESSIONS  
TRIAL NO. 233 OF 1992 PENDING IN THE COURT OF SIRI  
J.K.S.RAJPUT, SECOND ADDITIONAL SESSIONS JUDGE, DRUG  
ARISING OUT OF CRIME No. 580 OF 1991 REGISTERED BY  
THE C.B.I. IN R.C.NO. 7(5)/91 OF S.I.U. C.B.I. NEW  
DELHI UNDER SECTIONS 302/201/120-B I.P.C.



The petitioner begs to submit that :

CLERK OF THE ADVOCATE GENERAL  
MADHYA PRADESH  
17/4

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1. This is the fourth bail application being filed in this Hon'ble Court. The first petition in Misc. Criminal Case No. 4469 of 1992 was dismissed by this Hon'ble Court. The second petition in Misc, Criminal Case No. 3791 of 1993 was dismissed on 24.9.1993 and the third bail petition in Misc .Criminal Case No. 4991 of 1993 was dismissed on 24.6.1994.

2. The petitioner is filing this petition on account of unconscionable delay that is taking place in the disposal of this case.

F A C T S

1. The petitioner was arrested on 13.10.1991 on allegations that he was involved in the murder of a labour leader by name Shankar Guha Niyogi on or about 28.1.1991 at his residence in HUBCO Sector, Bhilai. Nobody has seen the assailant and the case rests on circumstantial evidence alone.

2. At the time of his arrest, the petitioner was a student of law class and he has been in custody since then. The case has been committed to the Court of Sessions on 7.7.1992.

3. This Hon'ble Court has rejected the bail application essentially on the following circumstances:

(a) Along with co-accused Chandra Kant Shah

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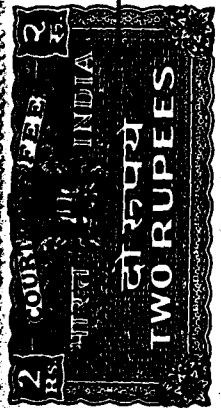
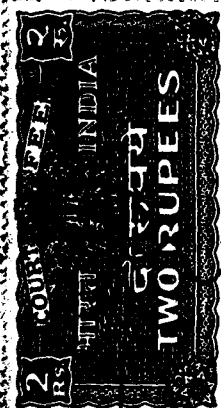
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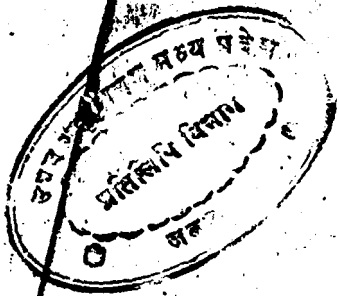
Awdesh Rai and Abhay Kumar Singh, the petitioner had gone to Nepal about the month of March 1990 and had purchased some weapons. (Awdesh Rai and Abhay Kumar Singh have already been released on bail by this Hon'ble Court).

(b) Further that the petitioner was seen in the company of one Paltan Mallah, who is said to be the principal accused in the case (Paltan Mallah is also in custody in this trial).

G R O U N D S

1. The petitioner has been in custody since 13.10.1991 and thus he has spent 3½ years in prison as an under-trial.
2. Even though evidence is being recorded in the trial, the learned senior prosecutor of the C.B.I. has so far avoided to examine any material witness who would connect the petitioner with the alleged offence.
3. For several months now, the prosecution is still trying to establish the motive and association of various accused persons.
4. The case against the petitioner rests, on the statements of the following witnesses :





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- (i) Ravi Kumar alias Ravi Driver P.W.54 in the list of witnesses.
- (ii) Devendra Kumar Patni, P.W.59 in the list of witnesses.
- (iii) Mahendra Pratap, P.W.57 in the list of witnesses.
- (iv) Iqbal Ahmad, P.W.55 in the list of witnesses.
- (v) Santosh Gupta, P.W. 56 in the list of witnesses.
- (vi) Shri M.Topo, Vigilence Officer, Bhilai, P.W. 199 in the list of witnesses.
- (vii) S.Sasmal, P.W. 216 in the list of witnesses.
- (viii) Kaluram, P.W.115 in the list of witnesses.
- (ix) Uma Shankar Rai, P.W.50 in the list of witnesses.
- (x) Satya Narayan, P.W.53 in the list of witnesses.

5. In fact, the whole case of the prosecution is essentially built up on the evidence of these witnesses and yet the prosecution is fighting shy to examine these persons.

6. There are 312 witnesses in this case cited by the prosecution and the case will take a long time to conclude. So far 32 witnesses have been examined by the prosecution and it is submitted that no case against the petitioner has been made out.

7. The petitioner is a permanent resident of Bhilai. He had never absconded. In this case out of nine accused, six persons have already been released on bail and only three accused persons, namely, the

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petitioner, Chandra Kant Shah and Paltan Mallah are in custody.

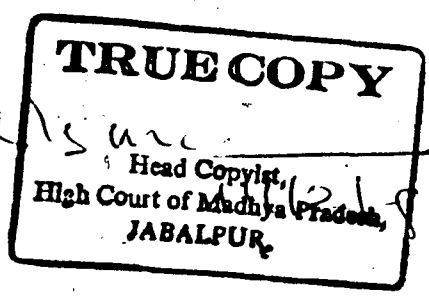
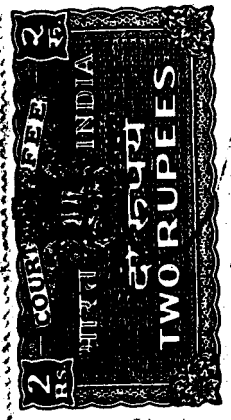
PRAYER

That he be released on bail pending disposal of his case.

*[Handwritten Signature]*

COUNSEL FOR PETITIONER

JABALPUR,  
Dt. 17/4/95



EXP. 5-10-2  
EXP.

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Copy of order <sup>with 10 marks</sup> 8/10/95

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

208

MISC.CRI.CASE NO.

OF 1995

Gyan Prakash Mishra, son of  
Chhuttan Mishra, aged 28 years,  
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...PETITIONER

VERSUS

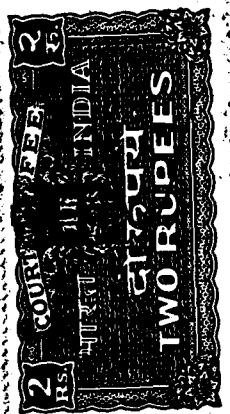
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...RESPONDENT

5/15/95

1714

R.C. Shrivastava



D.R.  
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