

ITEM NO.3 COURT NO.2 SECTION II-C  
(HEARING THROUGH VIDEO CONFERENCING) OUT-TODAY

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No.26709/2021

(Arising out of impugned final judgment and order dated 29-09-2021 in WP No.53944/2016 passed by the High Court Of Karnataka At Bengaluru)

B.A. UMESH Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(FOR ADMISSION and I.R.; IA No.6716/2022 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No.6720/2022 - FOR EXEMPTION FROM FILING O.T.; and, IA No.6717/2022 - FOR EXEMPTION FROM CUSTODY CERTIFICATE)

Date : 31-01-2022 This petition was 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

For Petitioner(s) Dr. Yug Mohit Chaudhry, Adv.  
Ms. Payoshi Roy, Adv.  
Mr. Siddhartha Sharma, Adv.  
Mr. K. Paari Vendhan, AOR

For Respondent(s)

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

Dr. Yug Mohit Chaudhry, learned Advocate appearing for the petitioner submits that:

- a) Even after recording a finding that there was avoidable delay to the extent of 550 days in disposing of the mercy petition, the High Court did not grant any relief to the petitioner.

- b) Going by the letter written by a Medical Officer, which letter was not controverted, the petitioner was kept in solitary confinement for about 11 years. Thus, the law laid down by this Court in *Sunil Batra v. Delhi Administration & Others*, (1978) 4 SCC 494 was violated.
- c) The letter written by the Medical Officer was quite clear that because of the psychological condition, the petitioner was unable to make any mercy petition. This fact was also not taken into account in correct perspective by the High Court.

Issue notice, returnable on 05.04.2022.

Liberty is granted to serve the learned Standing Counsel for the State.

Pending further consideration, the effect and operation of death sentence awarded to the petitioner shall remain stayed. Let an intimation in this regard be sent to the concerned prison immediately.

Since the medical condition as stated by this Court in *Shatrughan Chauhan & Another v. Union of India & Others*, (2014) 3 SCC 1 is a relevant supervening circumstance of the confirmation of death sentence, we deem it appropriate to pass the following directions:

- a. The State shall place before us the Report(s) of all the Probation Officer(s) relating to the accused before the next date of hearing. In case there have been more than one Report, let all Reports be placed for the consideration of this Court.
- b. Since the National Institute of Mental Health and Neuro Sciences (NIMHANS) at Bengaluru, has on the earlier occasion made psychological assessment of the petitioner, the Director NIMHANS is directed to constitute a suitable team for psychological evaluation of the petitioner and send a Report before the next date of hearing.
- c. The Jail Authorities, Belgaum Central Prison where the petitioner is presently lodged shall render complete co-operation in facilitating access to and due evaluation of the petitioner in all respects.

The Reports shall be placed before this Court on or before 01.04.2022.

The Registry shall send due intimation to the concerned authorities immediately.

List the matter for further consideration on 05.04.2022.

(MUKESH NASA)  
COURT MASTER

(VIRENDER SINGH)  
BRANCH OFFICER