

**SESSIONS CASE NO.38 OF 2009
AND
OTHER CASES**

Order below Exh.996.

Heard Learned Special P.P. Mr.H.M.Dhruva for the State and Learned advocate Mr.K.G.Shaikh for the applicant-accused.

1. The present application has been filed to transfer the accused No.19, 52 and 57 of this case to Central Jail, Belgaum, Hubli (Karnataka) on the grounds that the Crime Branch, Ahmedabad has given an assurance to the Hubli Court that the accused shall be returned to the Court after remand period is over.

The trial at Hubli Court is at crucial stage and the presence of the accused is essential. The application for permanent exemption in the case has been given, the accused have no objection if the trial is proceeded to in their absence. For the last five months, about six warrants of Hubli Court have been issued, but the applicants have not been sent to Hubli Court by the Jail Authorities or by

the State Government, the accused No.28 to 34, 43 to 47, 51, 70 and 71 were sent to Taloja Central Jail, Mumbai since they were first arrested. The accused are unable to contact their lawyers at Hubli and that they need to be transferred to the Hubli Court until the completion of the trial.

L.A. for the applicant has prayed to allow the application.

2. Learned Special P.P. Mr.H.M.Dhruva has submitted that the present application in the present form cannot be granted as it is likely to adversely affect the interest of the present trial. Hence, the application needs rejection.

3. Having perused the application, accompanying documents and upon appreciating the oral submission made before this Court, following points have been found to be essential to be considered to decide the present application.

(i) There is nothing on record to support the version that Crime Branch, Ahmedabad has

given any assurance to Hubli Court as contended and even the production warrant also does not so reveal.

- (ii) As a matter of fact, the accused No. 28 to 34, 43 to 47, 51 and 70 are facing the trial before Mcoca Court and in view of the provisions of that Act, the Mcoca trial enjoys precedence over the present trial and that for this reason, they have been sent there and not because of the reason assigned by the accused in the present application.
- (iii) It needs a note that the Hubli Court has not passed any order to send the accused to Hubli until completion of their trial and that there is no base to send these accused to the Hubli Court until the trial is over.
- (iv) Moreover, no case has been made out to send the accused for such an unlimited period.
- (v) Until the completion of the trial, is in a way a

vague phase and since it does not specify any time limit, granting the relief would amount to send the accused for unlimited period which is likely to adversely affect the interest of the present trial of the serial bomb-blast cases which is neither proper nor prudent.

(vi) Vide Exh.1054, the Jail Authority has sent its remarks and reply qua the application. From the said reply, it emerges that the Jail Authority have not sent the accused to the Hubli Court since the order of revocation was not passed by the State Government. Considering the said situation, it seems that there is substance in one of the grounds raised by the applicant, but merely the said substance does not guide this Court to allow the present application.

(vii) As has been contended by the applicant, permanent exemption has been granted to the accused and the orders directing the Jail Authority to send the accused to Hubli Court have also been passed on the production

warrants being sent to this Court.

4. In view of the said facts and circumstances of this case, this Court is of the firm opinion that the present application cannot be granted, hence the same needs to be rejected and following order is passed.

ORDER

The application hereby stands rejected accordingly.

A yadi of this order be sent to Jail Authority and the I.O. accordingly.

Pronounced in the open Court today on this 7th day of August, 2013.

**(Jyotsna Yagnik)
Designated Judge,
Special Court for conducting
Speedy Trial of Serial Bomb-
Blast Cases, Ahmedabad,
Gujarat.**

Unique ID. Code No. GJ00024

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