

Order below Ex 191 in Session Case no. 38/2009

(1) This is an application dated 12-04-2010 submitted by Deputy Superintendent of Police, National Investigation Agency, Ministry of Home Affairs New Delhi requesting to allow to examine the 26 accused person and to record their statements in the interest of sovereignty, security and integrity of India.

(2) Facts of the Application.

2.1 It is stated that the National Investigation Agency (in short NIA) is investigating case no. 04/10 PS NIA, U/s 120 (B), 122, 124 (A), IPC r/w Sec. 3, 5, 10, 13 UA (P) ACT, Sec 25 & 27 Arms Act. That the case was initially investigated by Mundakkayam Police of Kottayam District. Later the investigation was taken over by Joint Investigation Team (JIT), Kerala Police on 16.09.2008. During the investigation, it was revealed that the accused were engaged in physical training, arms training including firing practice, rock climbing, manufacture of petrol bomb, etc. There were classes on 'Jihad in India' and their intention was to wage war against the Nation and to cause threat to the security and integrity of the country.

2.2 It is stated that the following 26 (twenty six) accused persons were arrested and now lodged at the Central Jail, Sabarmati at Ahmedabad in connection with Ahmedabad Serial Bom Blast Cases :

(1) P. A. Shaduli, S/o. Abdul Kareem, Paedicakel House, Earattupetta, Kottayam District.

(2) Hafis Hussain @ Adinan, S/o. Thajudeen Mulla, Railway Station Road, Bijapur, Karnataka State. (Arrested).

(3) Safdar Hussain Nagori Hussain Bai, Iqubal Bai, S/o. Saheer-Ulla Hussain @ Sahrudeen Nagori, R/o. 48, Nagori Colony, Mahitpur, City Ujjain, MP.

(4) Shibili, P. A., S/o. Abdul Kareem, Paedicakel House, Earattupetta, Kottayam District.

(5) Mohammed Ansar Nadvi, S/o. Abdul Razak, Perumthelil House, Kunjunnikkara, Aluva, Ernakulam, Kerala.

(6) Ameel Pervez, S/o. Kazi Saifudeen Sheikh, Chotta Bazar, Juma Masjid Road, Unhel District, MP. (Arrested)

- (7) Mohammed Ali, S/o. Moharum Ali Ansari, R/o. 376/85, Nalbasthi, Gohalpur, Jabalpur District, MP.
- (8) Kamran, S/o. Haji Sahib, R/o. Villi, Karwadi, Khandwa District, MP. (Arrested)
- (9) Abdul Sami @ Mohd. Sami, S/o. Raju Muhammed, Vagiwadi, R/o. 1495, Mangudi Road, Polakasi Nagar, Bijapur, Karnataka State.
- (10) Mohammed Yasir @ Gulrez, S/o. Abdul Ameet Khan, Flat No. 17, Gilberg, Karnataka.
- (11) Mohammed Assif, S/o. Mohammed Khadher, 11/13-45, Nethagi Nagar, Raichur, Karnataka.
- (12) Nadeen, S/o. Abdul Naeem Syed, Plot No. 2283, Mahathesh Nagar, Belgam, Karnataka.
- (13) Mufti Abdul Basheer @ Abu Basheer @ Abdul Razik, S/o. Aboobaker Seikh, Binapura, Azamgarh District, UP.
- (14) Mohammed Sajid @ Sajid Zead, S/o. Gulam Faza Mansoori, R/o. 4/3001, Begampura, Ahamad nazir street, Surat, Gujarat.
- (15) Gayasudheen, S/o. Abdul Salim Ansari, House No. 2, Chousdhurs Chal, Kamdar Maidan, Gomtipur, Ahmedabad, Gujarat.
- (16) Jahid Kuthabudeen Sheikh, Sandi Avenue, Pophlall House, Opp. Visala Hotel, Jodhpur, Ahmedabad, Gujarat.
- (17) Arif Kagazi @ Mohammed Arif, S/o. Mohammed Arif Kagazi, R/o. 179 Sagarvad, Behind Afthar Valley masjid, Shahpur, Ahmedabad, Gujarat.
- (18) Abdul Razik @ Mohammed @ Furkhan, S/o. Muhammed Ishar Manoor, R/o. A/8 Amon Apartment, Rajkur, Gomatipur, Tolnaka, Ahmedabad, Gujarat.
- (19) Imran Sheikh, S/o. Ibrahim Sheikh, R/o. Opp. Panchatigar Masjid, Vadi, Thaivada, Baroda, Gujarat.
- (20) Quayamudheen @ Rizvan, S/o. Surfudheen Kapadia, R/o. Vagechistiyavad, Thaivada, behind Swami Narayan Temple, Vadodara, Gujarat.
- (21) Asadulla H. A., S/o. Aboobecker, No. 1425/A, Behind Madhina Masjid, Hosapet, Karnataka.
- (22) Javed Ahammed, S/o. Shabeer Ahammed Sheikh, R/o. 744/9879, Pappathapur, Kamdar Maidan, Gomatipur, Ahmedabad, Gujarat.
- (23) Muhammed Irfan @ Valkid, S/o. Muhammed Vakid Mansuri, R/o. Karali Village, Dr. Rajendra Prasad ward, Imliya Road, Burman Chowk, Narasingpur, MP.

(24) Nashir Ahammed @ Parvez, S/o. Liyakat Ali Patel, 8th Cross, Boxit Road, Assam Nagar, Belgaum, Karnataka.

(25) Shakeel Ahammed, S/o. Abdul Salam Mali, Janatha Quarters, Gulganji Koppa, Dharward, Karnataka.

(26) Dr. Mirza Ahammed Beg @ Mubarak, S/o. Khwaja Beg Mirza, R/o. Topgali, Hamnabad, Bidar, Karnataka.

2.3 It is also stated that to get further lead in the investigation, in the case no. 04/10 PS NIA, U/s 120 (B), 122, 124 (A), IPC r/w Sec. 3, 5, 10, 13 UA (P) ACT, Sec 25 & 27 Arms Act to allow the NIA to question the above said person in the Sabarmati Jail. It is requested to allow to examine the 26 accused person and to record their statements in the interest of sovereignty, security and integrity of India.

(3) Read application. Perused the FIR attached with the application and relevant record of the case.

(4) it is alleged in the FIR that the accused persons being the members of banned organisation SIMI, conspired to disrupt the communal harmony and integrity of the nation by conducting secret training camp. That the accused are indulge in the act of sedition, unlawful activities and underwent arms training to wage war against Government. That the accused were engaged in physical training, arms training including firing practice, rock climbing, manufacture of petrol bomb, etc. There were classes on 'Jihad in India' and their intention was to wage war against the Nation and to cause threat to the security and integrity of the country.

(5) In the case of R. Venkatakrisnan v/s. CBI reported in AIR 2010, SC 1831, it has been held as under :

***Para. 81.** The Courts, however, while drawing an inference from the materials brought on record to arrive at a finding as to whether the charges of the criminal conspiracy have been proved or not, must always bear in mind that a conspiracy is hatched in secrecy and it is, thus, difficult, if not impossible, to obtain direct evidence to establish the same.*

(6) It appears that the permission is required to be granted to get further lead in the investigation.

(7) Considering the fact of the application, allegations made in the compliant,

on the facts and circumstances of the case and in the interest of the justice, the following order is passed.

ORDER

(1) This application is granted.

(2) National Investigation Agency is allowed to examine the 26 accused person (Names stated in para 2.2 of this order) and to record their statements with following conditions.

(a) Statements be recorded in presence of Jail Superintendent of Central Jail, Ahmedabad.

(b) National Investigation Agency will record the statement and make Videography of the entire proceedings.

(c) National Investigation Agency will provide copy of the statements to the accused free of cost.

(d) NIA shall take all precautions regarding the maintenance of human rights of the accused while recording of their statements.

(3) The Jail Superintendent of Central Jail, Ahmedabad is directed and ordered to provide all necessary facilities to NIA for examining the 26 accused person and to record their statements.

The Office is directed to send the copy of this order to the National Investigation Agency Ministry of Home Affairs New Delhi and Jail Superintendent of Central Jail, Ahmedabad for information and necessary action accordingly.

Pronounced in open court on 18th November, 2011.

Dt.: 18.11.2011

(V. P. Patel)
Special Judge
Designated Court for conducting
Bomb Blast Cases, Ahmedabad.