

SESSIONS CASE NO. 38 OF 2009

Order below Exh.832.

Heard and Learned Special PP. Mr.S.B.Brahmbhatt and Learned Additional Special PP. Mr.A.M.Patel for the State.

Heard Mr.G.V.Ramana Dy.S.P, N.I.A. Hyderabad, who is present.

1. The present application has been moved to obtain custody of accused Habib Falai who is at present in judicial custody of this Court in the captioned sessions case. As contended, the said accused is A-32 in the case being investigated by N.I.A., Hyderabad, but as per record of this case, the said accused is facing the trial against whom the charge has already been framed and who has mentioned in the record as A-71, thus practically the trial against the said accused has been initiated in the case being tried by this Court.

2. It is worthwhile to note that at present, on account of the application tendered by the said accused, the oral evidence qua his case is not being recorded. As it may be but the fact remains that the trial has been initiated against the accused.

3. As has been requested by Mr.G.V.Ramana, the said accused is required only for 10 days so as to enable N.I.A., Hyderabad to interrogate him in the cases being investigated by N.I.A., Ernakulam. The officer has requested to permit him to take the custody of the accused right from tomorrow. Since this Court is on medical leave, at

this juncture, for of few days, the trial is not likely to be proceeded. Moreover, the investigation of the case of N.I.A., Hyderabad should also be completed at its earliest in larger interest of justice.

Considering the above discussion, this Court is of the opinion that the application needs to be granted. However, the said grant has to be with the conditions mentioned herein below.

Conditions

1. The applicant, Dy.S.P, N.I.A., Hyderabad is permitted to take police custody of accused, Habib Falai (A-32) in the record of N.I.A., Hyderabad and A-71 in the record of this case for 10 days only viz. From 09/04/2013 to 18/04/2013. These ten days are inclusive of the journey to and fro viz. Ahmedabad to Hyderabad. It is clarified that N.I.A., Hyderabad shall return the custody of the accused to this Court in any case on or before 18/04/2013 of 18:00 hours.
2. The N.I.A, Ernakullam shall not present or produce the said accused at any other place including media etc. and the period for which the custody of the accused has been granted to the N.I.A. Ernakullam shall only be utilised for interrogation of the mentioned cases and for to and fro viz. from Ahmedabad to Hyderabad and vis-a-versa.
3. The Central Jail Authority, Ahmedabad is hereby directed to hand over the custody of the said accused to Shri G.V.Ramana,

Dy.S.P., N.I.A., Hyderabad by adopting due process for the same. On 09/04/2013 from 08:00 a.m. to any time, Shri Ramana comes to take the custody of the said accused.

4. If the procedure under Section 268 of Cr.P.C. for revocation is to be initiated, the same shall be done by the Central Jail Authority at its earliest and then after the custody of the accused be handed over to Shri Ramana.
5. The Police Commissioner, Ahmedabad is hereby directed to provide necessary security and armed escorts to Mr.Ramana to take away the accused from Central Jail, Sabarmati. The Police Commissioner, Ahmedabad shall decide the number of armed escorts and security personnel considering the totality of the circumstances.
6. The Police Commissioner, Ahmedabad is further directed to bring back the accused to the Central Jail, Sabarmati with similar security arrangement and armed escort to Central Jail, Sabarmati, Ahmedabad on 18/04/2013 and/or any time before that upon receipt of the return intimation from N.I.A., Hyderabad.
7. The said accused shall not give any interview to individual, press, media or any person on the subject of the proceedings before this Court.
8. The Registry shall send the Yadi of this Order to the Police

Commissioner, Ahmedabad and Central Jail Authority, Sabarmati for compliance of the order. The Registry shall also give Yadi of this order in person to Shri G.V.Ramana, Dy.S.P of Police, N.I.A, Hyderabad.

9. Shri G.V.Ramana, Dy.S.P, N.I.A., Hyderabad shall produce the accused on time to the Central Jail, Sabarmati without fail under written intimation to this Court.

With the above direction, the application stands allowed on the above conditions and is accordingly disposed of.

Pronounced at the residence of the Court today on this 8th day of April, 2013 at 15:50 hours.

Date:- 08/04/2013.

Place :- Ahmedabad.

**(Jyotsna Yagnik)
Judge,
Special Designated Court
for conducting speedy trial
of Serial Bomb-Blast Cases,
At Ahmedabad.**