

**IN THE COURT OF SPECIAL DESIGNATED JUDGE FOR
SPEEDY TRIAL OF SERIAL BOMB BLAST CASES,
AT AHMEDABAD**

Sessions Case No.38 of 2009 and others

Order below Exh. 425.

Heard learned Special P.P. Mr. H.M. Dhruv in company of learned Special P.P. Mr. M.R. Amin and Mr. Amit Patel for the State and learned Advocate Mr. Munshi for the accused.

1. This application has been moved by the investigating officer praying this Court that, in the facts and circumstances of this case, it is essential to apply handcuffs and ropes on the 28 accused while they are to be taken from Ahmedabad to Ernakulam at Kerala. Mr. Dhruv has urged to grant the application.

2. Heard learned Advocate Mr. Munshi, perused his endorsement of No Objection for grant of the application.

3. Having heard both the sides and upon carefully perusing the application, following points have emerged before this Court for the consideration :

- (1) Accused persons are chargesheeted in 35 different F.I.R. cases of which 20 cases are of Ahmedabad Serial Bomb Blast and 15 cases of Surat Bomb Plantation cases.

- (2) These accused persons are charged for the offences punishable under Section 120(b), 128(a), 153(a)(1)(c), 302, 307, 326, 435, 427, 465, 468, 471, 212 of Indian Penal Code and also under Section 3, 5, 6, 7 of Explosive Substances Act, 1908 and also under Section 10, 13, 16, 18, 19, 20, 23, 38, 39, 40 of Unlawful Activities Prevention Act, 1967 and also under Section 25(1)ba and 27 of Arms Act, 1959 and also under Section 65, 66 of Information Technology Act, 2000 and under Section 3, 4 of Damage to Public Property Act, 1984.
- (3) These accused persons are facing charges of hatching conspiracy to destabilize settled Government as well as taking training in terrorist camp situated at Halol, Vaghmon etc. Charges also state about these accused being member of banned terrorist organization like SIMI and IM (in short).
- (4) The trial is to begin from 2/7/2012. That the bail application preferred by most of the accused is rejected on merits.
- (5) Looking to the nature of, seriousness of the offence, likelihood of disturbance of public order as well as public interest and when necessary orders under Section 268 of the Code of Criminal procedure has been passed in this matter, it is thought fit to consider this application as :

- (a) For the first time large number of accused i.e. 28 accused persons in number are required to be taken from Sabarmati Central Jail to the Court situated at Ernakulam, Kerala by Road.
- (b) It is an enormous responsibility which is required to be discharged by every member of escorting party so as to ensure safety and security of the accused persons on one hand as well as also to ensure that none of these accused persons try to abscond or misuse the liberty in any manner.
- (c) Similar prayer below Exh.223 had been entertained by learned Predecessor.
- (d) The 28 accused together may become desperate to escape etc.
- (e) Looking to the time i.e. transit period, night hours of transit period and also the fact of passing through different States starting from Gujarat to Kerala along with the fact of potential proneness and vulnerability for making efforts of absconding, this seems to be a fit case to allow the application.
- (f) The judgment of Hon'ble Supreme Court of India reported in 1995 SCC (Cri) Page 600 in the matter of Citizens for Democracy through its President v. State of Assam &

Ors., the worth mentioning para 17 of the judgment reads as under :

"17. Where the police or the jail authorities have well-grounded basis for drawing a strong inference that a particular prisoner is likely to jump jail or break out of the custody then the said prisoner be produced before the Magistrate concerned and a prayer for permission to handcuff the prisoner be made before the said Magistrate. Save in rare cases of concrete proof regarding proneness of the prisoner to violence, his tendency to escape, he being so dangerous/desperate and the finding that no other practical way of forbidding escape is available, the Magistrate may grant permission to handcuff the prisoner".

6. In view of the foregoing discussion it seems just, proper, in accordance of settled position of law and that very very peculiar circumstances existed in this case warrants grant of prayer, hence following final order is passed :

ORDER

- (a) The Police Escort Party who is to take 28 Under Trial Prisoners to present them at Court of Ernakulam, Kerala from Central Jail, Sabarmati, Ahmedabad is hereby permitted to apply handcuffs and ropes on the said 28 accused persons mentioned in the order passed below Exh.408 & Exh.411 of this Court for taking them from Central Jail, Sabarmati, Ahmedabad to Ernakulam, Kerala and even to bring them back to Central Jail, Ahmedabad.

- (b) The human right and the worth of human dignity in the 28 Under Trial Prisoners shall be respected and protected by the Escorting Party.
- (c) Yadi of this order be sent to Central Jail, Sabarmati, Ahmedabad and Crime Branch.

With the above directions the application stands disposed of as allowed.

Pronounced today on this 22nd day of June, 2012.

(Dr. Smt. Jyotsna Yagnik)
Special Designated Judge
for speedy trial of serial
bomb blast cases,
Ahmedabad.