

SC/38/2009

ORDER

IN THE CITY SESSIONS COURT AT AHMEDABAD
3

SESSIONS CASE NO. 38 OF 2009.
WITH
SC/418/2009

Complainant:

1. THE STATE OF GUJARAT
CITY CIVIL AND SESSIONS COURT, BHADRA, AHMEDABAD.

VERSUS

Accused:

1. JAHID KUTBUDDIN SHAIKH 25
C/O. POPATLAL, SANDHI AVENUE, OPP. VISHALA HOTEL,
JUHAPURA, AHMEDABAD.
10. AMIL PARVEZ KAJI SAIFUDDIN SHAIKH
CHHOTA BAJAR, JAMA MASJID, THANA, UNHEL, UJJAIN.
11. SHIBLI @ SABIT ABDULKARIM MUSLIM
DIST. KOTAYAM, KERALA.
12. SAFDARNAGORI JAHRULHASAN @ JAHRUDDIN NAGORI
NAGORI MAHOLLA, THANA, MAHIDPUR, DIST. UJJAIN,
MADHYAPRADESH.
13. HAFIJHUSEN @ ADNAN TAJUDDIN MULLA
REMAND HOME, B/H. BUS STAND, STATION ROAD,
BIJAPUR, KARNATAK.
14. MAHMAD SAJID @ SAJJAD @ SALIM @ SAD S/O.
GULAMKHAW
33, LUKMAN PARK, JAMBUSAR ROAD, BAYPAS. BHARUCH.
15. MUFTI @ ABUBASAR @ ABDULRASID S/O. ABUBAKAR
SHAIKH
AT.POST. BINA, DIST. AZAMGADH, UTTARPRADESH.
16. ABBAS UMAR SAMEJA
OPP. PAVAN CHAKKI, JUNA KACHCHH, MITRA PRESS
ROAD, CAMP AREA, BHUJ, KACHCHH.
17. NAVED S/O. NAIMUDDIN
ALFARUQ SOCIETY, JIVRAJPRAK, B/H. CHOWKI,
AHMEDABAD.
18. JAVED AHEMAD SAGIR AHEMAD SHAIKH
744/19, PATASA POLE, KAMDAR MEDAN, GOMATIPUR,

AHMEDABAD.

19. RAJIUDDIN NASIR @ RIYAZUDDIN NASIR @ ALAUR RAHEMAN
16/2/807 , A/11, J.Y.COLONY, HAYDRABAD.
2. IMRAN IBRAHIM SHAIKH
PARNJARI GHAR, OPP. MASJID, VADI, TAIWADA, VADODARA
20. ATIKUR RAHEMAN ABDUL HAKIM MUSALMAN KHILJI MUSLIM
NR. SAMAD BODYWALA, GHANTAGHAR, THANA MAKARBA, KOTA, RAJASTHAN.
21. MAHENDI HASAN @ VIKKI ABDULHABIB ANSARI JULAHA S MOTI MASJID, NARAYAN PANVALA NI GALI, BAJAJKHANA, KOTA, RAJASTHAN.
22. IMRAN AHEMAD @ RAJA SIRAJAHEMAD @ HAJI PATHAN MAIN ROAD, KISHORPURA, ASHAPALLA MANDIR, KOTA, RAJASTHAN.
23. AYAZ RAJAKMIYA SAIYAD
40, ALGAJALI PARK, NR. UMARNAGAR, SAIYADVADI, VATVA, AHMEDABAD.
24. UMAR @ ASHOK KALABHAI KABIRA
1, SABNAM DUPLEX, NR. AMIR PARK SOCIETY, MEMAN HALL, JUHAPURA, AHMEDABAD.
25. SALIMBHAI @ UMAR JAMALBHAI SIPAI
763/5154, GUJARAT HOUSING BOARD, GARIBNAGAR, BAPUNAGAR, AHMEDABAD.
26. MAHMADALI @ JAMAL @ JIYA @ YASAR @ ABUBAKAR MAHARA
376/85, NAI BASTI, GOHALPUR, JABALPUR, MADHYAPRADESH.
3. IQBAL KASAM SHAIKH
3, YAKUTPURA, KABIR COMP, BHOIVADA NAKA, VADODARA.
4. SAMSUDDIN SHAHBUDDIN SHAIKH
3100/3, LAKHOTA POLE, DARIYAPUR, AHMEDABAD.
5. GYASUDDIN ABDULSALIM ANSARI
2, CHAUDHARY NI CHALI, KAMDAR MEDAN, GOMATIPUR, AHMEDABAD.
6. MAHMAD ARIF MAHMAD IQBAL KAGDI
179, SAGARWAD, B/H. PATTHAVALI MASJID, SHAHPUR, AHMEDABAD.
7. MAHMAD USMAN MAHMAD ANIS AGARBATTIVALA
MAHANT NO KHANCHO, VADI, TAIWADA, VADODARA.

8. YUNUS MAHAMADBHAI MANSURI
C/132, AJITMILL CHAR RASTA, BAPUNAGAR, AHMEDABAD.
9. KAMRUDDIN CHANDMOHAMAD NAGORI
NAGORI MAHOLLA, THANA, MAHAKAL, UJJAIN.

Appearance:

H.M.DHRUVA For Complainant 1
S.P.BRAHMBHATT For Complainant 1
A.M.PATEL For Complainant 1
No Advocate For Accused

ORDER BELOW EXH. 287 IN SESSIONS CASE NO.38 OF 2009.

1 This is an application dated 07-12-2011 submitted by Superintendent of Central Jail, Ahmedabad requesting to pass necessary orders for the production of accused (1) Kamruddin @ Raja Chandmohammad Nagori (2) Safdar Nagori @ Hussainbhai @ Iqbalbhai S/o. Jehrulhussain Jahiruddin Nagori before the Judicial Magistrate First Class Court, Ujjain, Madhya Pradesh.

2 Facts of the Application.

2.1 It is stated that the accused (1) Kamruddin @ Raja Chandmohammad Nagori (2) Safdar Nagori @ Hussainbhai @ Iqbalbhai S/o. Jehrulhussain Jahiruddin Nagori are at present in the Central Jail, Ahmedabad in Judicial custody in the case No. 38 / 09 (Serial Bomb blast).

2.2 The another case bearing Case No. 2154/08 U/s. 153(A) of IPC is pending before the Judicial Magistrate First Class, Ujjain, Madhya Pradesh. The accused are required to be produced before the said Court on 20-12-2011.

3 A Xerox copy of the fax message sent by the Judicial Magistrate First Class, Ujjain, Madhya Pradesh is attached with the application which is marked as at Ex. 284/1 & 284/2. These are the Xerox Copy of the warrant U/s. 267 issued by the the Judicial Magistrate First Class, Ujjain, Madhya Pradesh, wherein it is stated as under :

"You are hereby required to produce the said (name of accused) under safe and sure conduct before this Court the Judicial Magistrate First Class, Ujjain, Madhya Pradesh on the 20th day of December 2011, by 11 : 00 a.m. Thereto answer to the said charge now pending before the said court and after

such charge has been disposed of or the said Court has dispensed with his further attendance. cause him to be conveyed under safe and sure conduct back to the said prison”

On perusing the said warrant, it transpires that the purpose of production of the accused before the Judicial Magistrate First Class, Ujjain, Madhya Pradesh is specifically stated that his presence is required for framing of charge.

4. The Government of Gujarat had passed order dated 27-10-2009 u/s. 268 of the Criminal Procedure Code that in the public interest, the accused 62 in number of the serial bomb blast shall not be removed from the Central Prison, Ahmedabad. The name of the present accused are included in the above 62 accused.

5. It is observed in the paragraph no. 2 of the order passed by the Hon'ble Supreme Court dated 06-07-2011 in Writ Petition (Cri.) No. 14 of 2010 that

“Mr. D.K.Garg, learned counsel appearing for the petitioners submit that the Home Department of State of Gujarat has issued a general order dated 27-10-2009 wherein it is stated that accused persons shall not be moved out of central prison, Ahmedabad. This submissions is countered by learned Solicitor General who states that even after this order, the accused persons were produced in Delhi. As specific query to this effect has also been put to the learned counsel appearing for the State of Gujarat who assures the Court that whenever it will be necessary and whenever there are proper warrants by any of the special courts, the accused persons shall be moved out of Ahmedabad to be present in that court.”

6. It is pertinent to note here that Hon'ble Supreme Court has held in the following Judgments that the physical presence of accused is not necessary and the trial can be carried out with the help of Video-Conferencing facility.

(A) AIR 2006 SC 2820 "State of Punjab v. M/s. Amritsar Beverages Ltd. Para 13

(B) AIR 2005 SUPREME COURT 972 "Kalyan Chandra Sarkar v. Rajesh Ranjan para 43,45

(C) AIR 2003 SUPREME COURT 2053 "State of Maharashtra v. Praful B. Desai para 12,19

(D) AIR 2008 SUPREME COURT 942 "Rajesh Ranjan Yadav v. CBI through its Director para 7

Considering the facts and circumstances of the case it appears that the physical presence of the accused is necessary and hence in

the interest of justice following order is passed :

ORDER

The Jail Superintendent of Central Jail, Ahmedabad is permitted to produce the accused (1) Kamruddin @ Raja Chandmohammad Nagori (2) Safdar Nagori @ Hussainbhai @ Iqbalbhai S/o. Jehrulhussain Jahiruddin Nagori before the Judicial Magistrate First Class Court, Ujjain, Madhya Pradesh on 20-12-2011 subject to following conditions.

(A) The Jail Superintendent shall obtain temporary revoke order u/s. 268 of the Criminal Procedure Code from the Government of Gujarat for removing the above two accused from the jail.

(B) After completion of the work of the said date in the Court of the Judicial Magistrate First Class Court, Ujjain, Madhya Pradesh, above two accused be returned immediately to the Central Jail, Ahmedabad.

(C) The Jail Superintendent is directed and ordered to take all precautions regarding the maintenance of human rights of the above two accused during the transit period.

(D) Jail Superintendent will inform to this Court on return of the above two accused in the jail.

Original warrant be sent back to the Jail Superintendent, Central Jail, Ahmedabad.

Yadi be sent to the Jail Superintendent, Central Jail, Ahmedabad.

Pronounced in the open Court, to-day on 14th December, 2011.

Date : 14/12/2011

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