

ORDER BELOW EXH.355 IN SESSIONS CASE NO.38 OF 2009.

1. This is an application dated 02-03-2012 submitted by Superintendent of Central Jail, Ahmedabad requesting to pass necessary orders for the production of the accused Aamil Parvez Kazi Saifuddin before the JMFC Court, Nagda, Ujjain, Madhya Pradesh on 27.03.2012.

2 Facts of the Application.

2.1 It is stated that the accused Aamil Parvez Kazi Saifuddin is at present in the Central Jail, Ahmedabad in Judicial custody in the case No.38/09 (Serial Bomb blast).

2.2 It is further stated that the accused Aamil Parvez Kazi Saifuddin is at present in the Central Jail, Ahmedabad in Judicial custody in the case No.38/09 (Serial Bomb blast) for the offence punishable under-section 120-B, 121-A, 124-A, 153-A (1)(B), 307, 427, 465, 468, 471 of IPC; Sec. 3, 5, 6, 7 of Explosives Substance Act; Sec.10, 13, 16, 18, 19, 20, 23, 38, 39 of Unlawful Activity Act; Sec.25(1)(B)A, 27 of Arms Act and Sec. 65, 66 of the Information Technology Act.

2.3 The another case bearing Case No.547/08 is pending before the JMFC Court, Nagda, Ujjain, Madhya Pradesh. The accused is required to be produced before the said Court on 27.03.2012.

2.4 The xerox copy of the production warrant for case

No.547/08 dated 25.02.2012 requiring the officer in-charge of the prison to produce the accused before the JMFC Court, Nagda, Ujjain, Madhya Pradesh is attached with the application. It is requested to pass necessary order to produce the above accused before the JMFC Court, Nagda, Ujjain, Madhya Pradesh.

3 Merits of the case

3.1 The xerox copy of the production warrant for case No.547/08 dated 25.02.2012 sent by the JMFC Court, Nagda, Ujjain, Madhya Pradesh is attached with the application which is marked as at Ex.355/1. On perusing the summons, it transpires that the above accused is required to be produced on 27.03.2012.

3.2 On perusing the said production warrant, it also transpires that the purpose of production of the accused before the JMFC Court, Nagda, Ujjain, Madhya Pradesh is specifically stated that his presence is required for to answer the charge U/s.228 of the Cr.P.C.

3.3 The Government of Gujarat had passed order dated 2-09-2009 u/s. 268 of the Criminal Procedure Code that in the public interest, the accused 70 in number of the serial bomb blast shall not be removed from the Central Prison, Ahmedabad. The name of the present accused is included in the above 70 accused and is at serial no.10. It is also stated that there are 35 cases (serial blast cases) pending against

the accused.

3.4 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."

4. The case against the accused in the JMFC Court, Nagda, Ujjain, Madhya Pradesh is pending for framing of charge. Presence of the accused in the said Court is necessary for the framing of charge. Speedy trial is a fundamental right of the accused. Therefore the accused is required to be sent to the JMFC Court, Nagda, Ujjain, Madhya Pradesh.

4.5. Considering the fact of the application,

presence required for trial, fundamental right of the accused, on the facts and circumstances of the case and in the interest of the justice, the following order is passed.

ORDER

This application is granted.

The Jail Superintendent of Central Jail, Ahmedabad is permitted to produce the accused Aamil Parvez Kazi Saifuddin before the JMFC Court, Nagda, Ujjain, Madhya Pradesh on 27.03.2012, subject to following conditions.

1. 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 accused from the jail.

2. After completion of the work in the JMFC Court, Nagda, Ujjain, Madhya Pradesh on 27.03.2012, the above accused is to be returned immediately to the Central Jail, Ahmedabad. Accused shall not be retained for any purpose. It is further clarified that the accused is sent to the concerned Court only to remain present for one day i.e. on 27.03.2012 and only for the purpose of answering the charge and no authority, police or the concerned Court shall restrain this accused beyond this time limit, as there is an ample necessity of the accused for the trial pending before this Court.

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

4. Jail Superintendent will inform to this Court on return of the above accused in the jail.

Copy of the order be sent to the Jail Authority accordingly.

Date : 03-03-2012

Place : AHMEDABAD

(V. B. MAYANI)
Special Judge, CBI Court No.2,
I/c. Special Judge, CBI Court
No.1 and I/c. Serial Bomb Blast
Cases, AHMEDABAD