

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

SESSIONS CASE NO.38 OF 2009 AND OTHERS.

ORDER BELOW EXH.:2081

1. The present application has been preferred by the Jail authority through the learned Special P.P., seeking relief inter-alia to the effect that the following accused (in all 26) who are in judicial custody in connection with the offence registered at Shahibaug Police Station being Ist C.R. No. 236/08, and which has culminated into Sessions Case No. 38 of 2009 as also other related matters which are tried as a group be permitted to be produced for another judicial proceedings before the **Special Court for NIA Cases, Ernakulam, Kerala**, on 16.02.2015 in Sessions Case No. 02/2011 (NIA) :-

[1] Safdar Nagori @ Hussainbhai @ Iqbal Jahrul Hussain Zahiruddin Nagori (A-12).

[2] Sibli @ Sabit Abdul Karim Muslim (A-11).

[3] Aamil Parvaz @ Sikandar Kazi Saifuddin Shaikh (A-10).

[4] Mohammed Usman @ Usman Mohammed Aniz Mansuri Agarbattiwala (A-7).

[5] Mahammedali @ Jamal @ Jia @ Yasir@ Abubakar Moharam Ali Ansari (A-26).

- [6] Kamran @ Fazlit Hussain Haji Sahid Siddiqui (A-62).
- [7] Mohammed Sami @ Abdul Sami Raj Ahmed Bagewadi (A-58).
- [8] Mohammed Yasin @ Mohammed Yasin Faridkhan @ Gulrej Abdul Hamidkhan (A-52).
- [9] Nadim Abdul Naeem Saiyed (A-56)
- [10] Mohammed Sajid @ Salim @ Salam Gulam Khwaja Mansuri (A-14).
- [11] Gyasuddin @ Gayasu Abdul Salim Ansari (A-5).
- [12] Jahid @ Javed Qutubuddin Shaikh (A-1).
- [13] Mohammed Aarif Mohammed Iqbal Kagji (A-6).
- [14] Mohammed Islam @ Abdul @ Musaf @ Kerion Mohammed Ishaq Mansuri (A-27).
- [15] Imran Ibrahim Shaikh (A-2).
- [16] Kayamuddin @ Musa @ Asfaq @ Abdul Kadir @ Rizwan @ Samir Sarfuddin Kapadia (A-37).
- [17] Mohammed Yunus @ Umar @ Khalid Mohammed Sabir Maniyar (A-65).
- [18] Dr.Asadulla H.A @ Aslam @ Asad @ Farooq Abubakar H. (A-57).
- [19] Javed Ahmed Sagir Ahmed Saiyed (A-18).
- [20] Kamruddin @ Abdulla @ Raja Chand Mohammed Nagori (A-9).
- [21] Mohammed Irfan @ Waqar @ Karim @ Mahammed Nakib (A-53).
- [22] Nasir Ahmed Liyakatali Patel (A-54).
- [23] Sakil Ahmed Abdul Salim Mali (A-55).
- [24] Dr.Ahmed Beg @ Mubarak Khwaja Beg Mirza (A-61).
- [25] Mohammed Habib @ Habib Falahi @ Mohammed Taiyab Abul Jais Shaikh (A-68).
- [26] Afaq Iqbal @ Iqbal @ Danish Riyaz @ Safi Saiyed Nurulhoda Saiyed (A-72).

It is also clear that the accused referred to above who are in judicial custody are also covered by a notification whereby the provisions contained in Section 268 of the Criminal Procedure Code is made applicable to such accused.

2. The present application seeks relief inter-alia to the effect that the above referred accused are required to be produced before the **Special Court for NIA Cases, Ernakulam, Kerala, in Sessions Case No. 02/2011 (NIA)** and therefore, temporary revocation of the provisions contained in Section 268 of the Criminal Procedure Code is sought and appropriate orders are also sought from this Court.
3. It is required to be noted here that a notice was ordered to stand issued to the concerned I.O. directing him to file a detailed report in connection with the present application, which report is filed by the concerned I.O. which is placed on record of the proceedings at Exh.:2141.
4. It is in such report clearly opined by the Investigating Officer that in view of the order passed by the Hon'ble Supreme Court in the matter of Writ Petition (Criminal) No.14/2010 order dated 06.07.2011, the presence of these accused is also required

before the Hon'ble Ernakullam Court. The concerned Investigating Officer has for detail reasons recorded in the said report, which is ordered to be placed on record and the proceedings at Exh.:2141 and the Investigating Officer has clearly opined that there is no objection to allow the application for the accused for the presence before the Ernakullam Court dated 16.02.2015.

5. Having considered the facts and circumstances, I too am of the opinion that transporting no less than 26 accused all of whom are charged with grave and serious offences and in respect of whom the provisions of Sec.268 of Cr.P.C. are applying, deep and careful consideration needs to be given before passing any orders for the revocation of the provisions of Sec.268 of Cr.P.C. and permitting the accused to be transferred from the custody of this Court to a Court in Kerala. Therefore, in my opinion, it would be the fitness of the things to allow the present application by ordering revocation of provisions of Section 268 of Cr.P.C., as sought for hearing and permitting such large number of accused to be produced before the concerned Court at Ernakullam - Kerala, considering the nature of the case and the proceedings. More so, when in the circumstances, due care and caution is required to be take, more

particularly in view of the nature of offence and the charge leveled against the said accused with their respective attitude and behaviours. I therefore, pass the following order:

O R D E R

- The application Exh.:2081 is allowed as prayed for.
- The concerned Jail Authority is hereby directed and ordered that the said accused (26) be transferred from Gujarat to Ernakullam - Kerala in two groups. First 13 accused be placed in concerned Central Jail and rest also be placed in the same for safety and security.
- It is further ordered that all 26 accused be produced all together before the Hon'ble Sessions Court, Ernakullam-Kerala on 16.02.2015, accordingly.
- The Secretary, Home Department, State of Gujarat is requested to issue an appropriate order of revocation concerning the above referred accused to enable the Jail authority of the Sabarmati Central Jail at Ahmedabad to produce the concerned accused in judicial proceedings being **FIR No.692/2008** before the **Additional Sessions Court, Ernakullam-Kerala.** It is hereby

categorically ordered and directed that there requires a strict compliance of the position taken and statements made by the State before the Honourable Supreme Court of India in Writ Petition No. 14 of 2010.

- The Jail Authority, Central Jail, Sarbarmati, Ahmedabad is also hereby directed that upon such revocation, the above named accused shall be produced for the judicial proceedings before the **Additional Sessions Court, Ernakulam-Kerala** on **16.02.2015**, as in compliance with the warrant annexed with this application, it is needless to say that necessary security and armed escort be provided for this accused. It is for the State Government and the Jail Authority to decide the number of such escorts. After the production of above accused before **Additional Sessions Court, Ernakulam-Kerala** the above mentioned accused be brought back to Central Jail, Sabarmati, Ahmedabad so as to see that the trial of the Serial Bomb Blasts Cases before this Court may not be delayed on account of permitting the production of this accused before another Court for another judicial proceedings. The Jail Authority, Ahmedabad is directed to send the copy of the warrant along with this Order to the Home Department, so that

necessary formalities can be completed. The Jail Authority, Central Jail is further directed to prepare a list of jails where connectivity for Video Conferencing facility is available between the Central Jail, Ahmedabad and other jails as a precautionary measure so that in future, proceedings in different Courts may not be delayed.

- The Central Jail Authority, Sabarmati, Ahmedabad is hereby further directed to immediately send the copy of the warrant to the Home Department while sending the warrant to this Court in future so as to see to it that the Home Department also can initiate the necessary formalities to act in compliance of the undertaking given before the Hon'ble Apex Court as mentioned above.
- The Jail Authority is also further directed to prepare a list of the Jails where connectivity for Video Conferencing Facility is provided and send the said list to this Court. It is further directed that here onwards while sending the warrant to the Court, the Jail Authority shall endorse in its forwarding letter whether the Court of the city or even Jail where the accused is required for another judicial proceedings have the

Video Conferencing Facility or not.

- The above named accused shall not be permitted to give any interview to individual, press, media or any person on the subject of the proceedings before this Court and shall not misuse the permission granted to him to be produced for another judicial proceedings, in any manner.
- The Registry shall send the Yadi to the Secretary, Home Department and Jail Authority by FAX today itself, at the earliest and then after shall send this Yadi in accordance with usual procedure so as to see to it that the Yadi is served at the earliest to the concerned Authorities.
- With the above directions, this application is accordingly ordered to stand disposed of.

Pronounced in the open court
today on this 6th day of **February, 2015.**

Date: 06-02-2015 (PANKAJKUMAR CHANDRAKANT RAVAL)
DESIGNATED JUDGE
SPECIAL COURT FOR CONDUCTING SPEEDY
TRIAL OF SERIAL BOMB-BLAST CASES,
AHMEDABAD, GUJARAT.
(CODE NO.: GJ00402)