

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

ORDER BELOW EXH.354 IN SESSIONS CASE NO.38 OF 2009.

1. This is an application dated 28-02-2012 submitted by Superintendent of Central Jail, Ahmedabad requesting to pass necessary orders for the production of the accused Abbas Umar Sameja before the Chief Judicial Magistrate Court, Bhuj, Kachhch on 06.03.2012.

2 Facts of the Application.

2.1 It is stated that the accused Abbas Umar Sameja 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 Abbas Umar Sameja 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 Criminal Case No.373/04 U/s.143 and 147 of IPC, and Bombay Police Act is pending before the Chief Judicial Magistrate Court, Bhuj, Kachhch. The accused is required to be produced before the said Court on 06.03.2012.

2.4 The original summons CCNo.373/04 dated 22.02.2012 requiring the officer in-charge of the prison to produce the accused before the Chief Judicial Magistrate Court, Bhuj, Kachhch is attached with the application. It is requested to pass necessary order to produce the above accused before the Chief Judicial Magistrate Court, Bhuj, Kachhch.

2.5 Further, on 29.02.2012, Mr. I. K. Sonara, Jailor Group No.2, Sabarmati Central Jail, Ahmedabad remained present and he submitted that the Chief Judicial Magistrate Court, Bhuj, Kachhch has sent a report for the production of the above accused on 06.03.2012. He also submitted that the procedure for revoking the order of the Government of Gujarat passed U/s.268 of the code of criminal procedure is going on and if the Government will permit then and then the accused will be sent to the concerned Court.

3 Merits of the case

3.1 The original summons CCNo.373/04 dated 22.02.2012 sent by the Chief Judicial Magistrate Court, Bhuj, Kachhch is attached with the application which is marked as at Ex.354/1. On perusing the summons, it transpires that the above accused is required to be produced on 06.03.2012 in Criminal Case No.373/04 U/s.143 and 147 of IPC and Bombay Police Act.

3.2 On perusing the said summons, it also transpires

that the purpose of production of the accused before the Chief Judicial Magistrate Court, Bhuj, Kachhch is specifically stated that their 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.16. 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 Chief Judicial Magistrate Court, Bhuj, Kachhch is pending for framing of charge. Presence of accused in the said Court is necessary for the framing of charge. Speedy trial is a fundamental right of the accused. Therefore accused are required to be sent to the Chief Judicial Magistrate Court, Bhuj, Kachhch.

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 Abbas Umar Sameja before the Chief Judicial Magistrate Court, Bhuj, Kachhch on 06.03.2012, 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 Chief Judicial Magistrate Court, Bhuj, Kachhch on 06.03.2012, 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 06.03.2012 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 : 01-03-2012

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

