

**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.:2316
(Application of Accused No.65 & 66)

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 accused (1) **Mohammed Shafiq @ Dadabhai @ Taufiq @ Rafiq @ Ali Abdulbari Ansari (A-66)** and (2) **Mohammad Yunus @ Umar @ Khalid Mohammad Sabeer Maniar (A-65)**, 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 **Judicial Magistrate First Class Court, Indore, Madhya Pradesh** in connection with **FIR No.28218/2009** on **03.03.2015**. 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 **Judicial Magistrate First Class Court, Indore, Madhya Pradesh** in **FIR No.28218/2009** 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 clear that in light of the position taken by the State in Writ Petition No. 14 of 2010 before the Honourable Supreme Court of India, certain undertakings were made with regard to the issue of revocation of the provisions of section 268 of Cr.P.C. as far as they relate to the production of the accused in other proceedings before other Courts. Considering the statutory provisions, it would be necessary to pass appropriate directions to the concerned authorities in light of the fact that the revocation of the order passed under section 268 of the Criminal Procedure Code would be necessary to facilitate the production of the accused before the other Court i.e. **Judicial Magistrate First Class Court, Indore, Madhya Pradesh**. The perusal of exhibit 1046 of the present proceedings makes it clear that there is no video conferencing facility available

between the Sabarmati Central Jail at Ahmedabad and the concerned Court i.e. **Judicial Magistrate First Class Court, Indore, Madhya Pradesh**, which has issued the production warrant of the above referred accused and therefore, it would not be possible to effect the production of the concerned accused via video conferencing facility. In that case also, it would be necessary to grant relief sought for, vide the present application.

4. It is made clear that a strict compliance of the order passed in Writ Petition No. 14/2010 by the Hon'ble Supreme Court of India would be necessary and production of the concerned accused before the concerned Courts is mandatory and any non-compliance of the order by the Jail authorities cannot be tolerated and serious consequential orders will be passed if the Jail authorities do not act upon the present order. It may be noted that such orders are required to be passed in light of the position taken by the State in Writ Petition No. 14 of 2010 before the Honourable Supreme Court of India. In the circumstances, I pass the following order :-

O R D E R

➤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.28218/2009** before the **Judicial Magistrate First Class Court, Indore, Madhya Pradesh**. 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, Sabarmati, Ahmedabad is also hereby directed that upon such revocation, the above named accused shall be produced for the judicial proceedings before the **Judicial Magistrate First Class Court, Indore, Madhya Pradesh** on **03.03.2015**, 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 **Judicial Magistrate First Class Court, Indore, Madhya Pradesh** 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 Yaadi to the Secretary, Home Department and Jail Authority by FAX today itself, at the earliest and then after shall send this Yaadi in accordance with usual procedure so as to see to it that the Yaadi 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 **24th** day of **February, 2015**.

Date: 24-02-2015

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

bkpatel