SC/38/2009 ORDER

IN THE CITY SESSIONS COURT AT AHMEDABAD

SESSIONS CASE NO. 38 OF 2009.
AND
OTHER COGNATE MATTERS

ORDER BELOW EXH.234

1) In Special Case No.38 of 2009 and other cognate matters about 65 accused persons have been tried and they are in jail.

2) Along with this application, the xerox copy of the jail warrant dated 15/07/2011 issued by the Judicial Magistrate First Class, Bhopal, Madhyapradesh is attached. It is submitted by the Jailer in this application that two accused- persons viz. (1) Kamruddin @ Raja Chandmohamad Nagori and (2) Safdar Nagori @ Husainbhai @ Iqbalbhai S/o. Jahrulhasan Jahiruddin Nagori, who are accused in the present case, are required to be produced before the Judicial Magistrate First Class, Bhopal, Madhyapradesh pursuant to the jail warrant issued by the Judicial Magistrate First Class on 15/07/2011 and therefore, this application is made to this Court.

3) Referring to Sec.267 of the Criminal Procedure Code, 1973, it appears that the Superintendent/ Officer in charge, Sabarmati Central Jail, Ahmedabad is required to follow the jail warrant/ order of Judicial Magistrate First Class, Bhopal, Madhyapradesh and to produce two accused-

persons before the said Court as per jail warrant. However, the said two accused- persons are required to be returned, so that, this Court may not cause any inconvenient for proceeding with the matter.

4) The Learned Special Public Prosecutor Mr. H.M.Dhruva and Ld. Advocate for the accused have submitted a copy of the order passed by the Hon'ble Supreme Court dated 06/07/2011 in Writ Petition (Criminal) No.14/2010 in the case of Zia-Ur-Rehman & Ors. Vs. Union of India & Ors., wherein, the Hon'ble Supreme Court has observed as below:-

> “Para-1:-Mr. Gopal Subramanium, learned Solicitor General along with the representatives of State of Gujarat, Maharashtra, Andra Pradesh and Rajastan makes a statement before us that special courts have already been set up in all these states as also the State of Karnataka. Mr. Gopal Subramanium also assures the court that the trials would shortly begin as the cases are ripe for framing of the charges etc.
>
> Para-2:- A 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.
>
> Para-3:- With the above-said observations, the writ petition is disposed of.”

5) Therefore, I pass the following order:-

:: **O R D E R** ::

i) This application is allowed.

ii) The Superintendent/ Officer in charge, Sabarmati Central Jail, Ahmedabad is permitted to follow the jail warrant issued by Judicial Magistrate First Class, Bhopal, Madhyapradesh dated 15/07/2011 on following conditions:-

1) The Superintendent/ Officer in charge, Sabarmati Central Jail, Ahmedabad is required to obtain necessary revoke order from the Government of Gujarat u/s.268 of Code of Criminal Procedure, 1973.
2) Two accused persons be returned immediately to the Central Jail, Ahmedabad.
3) Required arrangement and precaution for protection of the accused persons be adhered for transit of the accused persons.

iii) A copy of the order be handed over to the jail authority.

Date:18/08/2011

(B.J. DHANDHA)
Special Judge,
Designated Court for
Conducting Bomb-blase Cases,
Ahmedabad.