

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 546/2004

MOHD.JALEES ANSARI &amp; ORS.

Appellant(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

(With appln(s) for exemption from filing O.T and appln. for interim bail on behalf of appellant no. 12 and interim bail and office report)

Date : 09/12/2014 This appeal was mentioned today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR

HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr. Ratnakar Dash, Sr. Adv.  
Mr. Mohd. Irshad Hanif, Adv.  
  
Mr. Satpal Singh, Adv.  
  
Mr. Shadan Farasat, Adv.  
  
Mr. Shakil Ahmed Syed, Adv.  
  
Mr. Syed Shahid Hussain Rizvi, Adv.

For Respondent(s) Mr. P.K. Dey, Adv.  
Ms. P. Purnima, Adv.  
Mr. M. Khairati, Adv.  
Mr. B. V. Balaram Das, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

This is an appeal under TADA Act filed by 14 appellants (in all) who have been convicted under the various provisions of the TADA Act, the details of which may not be necessary for the purpose of this order.

Today, it is mentioned by learned counsel appearing for the appellants that this Court had earlier by this order dated 7.4.2011 called upon the Government to

consider the case of the appellants for release in view of the fact that the appellants had by then spent 15 to 17 and half years incarceration. The relevant portion of the order reads as follows:-

"Mr. Sushil Kumar, the learned senior counsel produced before us an order dated 3<sup>rd</sup> October, 1996 in CA No. 475/1993 Amrinder Singh & Ors. Vs. Union Territory of Chandigarh in which appellants had been sentenced to life imprisonment for offences punishable under Sections 4 & 5 of the Anit Hijacking Act, 1982 read with various provisions of the Indian Penal Code. On observations of this Court, the Central Government commuted the life sentence awarded to the appellants. The appellants before us have undergone 15 to 17 and half years of the sentence. We, accordingly, also commend to the Government to consider the case of the appellants also in the light of the order in Amrinder Singh's case."

Learned counsel further submitted that as on today, 10 of the appellants have spent more than 20 years in prison. On the other hand, Mr. P.K. Dey, learned counsel appearing for the Union of India placed before the Court a communication dated 4<sup>th</sup> May, 2011 where the Government of India mentioned that as a matter of policy, the Government has decided that a terrorist offences be treated as a distinct category and a minimum incarceration of 20 years would be mandatory before a case is considered for commutation of sentence. Therefore, it is stated in the communication as follows:-

"Therefore, the entitlement for being considered for commutation of sentence of the petitioners will arise after each of them has completed 20 years of incarceration."

In view of the said policy decision of the Government of India, we deem it appropriate to call upon the Union of India to examine the cases of the appellant nos. 1,2,4,5,6,7,9,10,12 and 13 as according to the learned counsel appearing for the appellants, these 10 appellants have completed more than 20 years incarceration. We make it clear that we are not directing the Government of India either to release these appellants or not to release these appellants. We only call upon the Government of India to consider their cases in accordance with the Government of India's policy for commutation of sentence under Section 432 of the Criminal Procedure Code within a period of six weeks from the date of receipt of this order.

We also deem it appropriate to direct the Government of India to undertake such an exercise of consideration with reference to each of the other appellants who are yet to complete 20 years incarceration as and when they complete 20 years in prison.

List the matter in the last week of February, 2015.

(DEEPAK MANSUKHANI)  
COURT MASTER

(INDU BALA KAPUR)  
COURT MASTER