

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 546 OF 2004

MOHD.JALEES ANSARI & ORS.

Appellant (s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

(With appln(s) for exemption from filing O.T.,bail)

Date: 9/03/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI  
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s)  
for A.1,4,6,7,8,9,  
10,13,14,15

Mr. Sushil Kumar,Sr.Adv.  
Mr. K.K.Tyagi,Adv.  
Mr. Aditya Kumar,Adv.  
Mr. Anmol thakral,Adv.  
Mr. Ifthikar Ahmed,Adv.  
Mr. P. Narasimhan,Adv.

A.2,3&5

Mr. J.S.Sodhi,,Adv.  
Mr. G.S.Sodhi,Adv.

A.12

Mr. Shakil Ahmed Syed,Adv.  
Mr. Shuaid-uddin,Adv.

Mr. Satpal Singh ,Adv.

Mr. Mohd.Irshad Hanif ,Adv.  
Mr. N.A.Usmani,Adv.  
Mr. Dinesh Sher Khan,Adv.

Mr. Pankaj Kumar Singh,Adv.

For Respondent(s)  
CBI

Mr. P.P.Malhiotra,ASG.  
Mr. Harish Chandra,Sr.Adv.  
Mr. P.K.Dey,Adv.  
Mr. Keshav Thakur,Adv.  
Ms. Padma Laxmi Nigam,Adv.  
Mr. Arvind Kumar Sharma,Adv.

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

We direct that the petitioner in  
Crl.M.P.2895/2009 be released forthwith.

Crl.M.P. 2895/2009 is allowed in terms of the  
signed order.

List the main matter on 31/3/2011 as part-heard  
at 2.00 p.m.

[SUMAN WADHWA]  
COURT MASTER

[VEENA KHERA]  
COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 546 OF 2004

MOHD. JALEES ANSARI & ORS. .. APPELLANT(S)

vs.

CENTRAL BUREAU OF INVESTIGATION .. RESPONDENT(S)

O R D E R

Criminal Miscellaneous petition No. 2895/2009 in  
Crl. A. No. 546/2004 has been filed by Mohd. Azimuddin who  
stands convicted and sentenced to imprisonment for life  
under various sections of the Terrorists and Disruptive  
Activities Act as well as under Sections 302 etc. of the  
IPC and also under various provisions of the Explosives Act  
and the Prevention of Damage to Public Property Act. By  
this application it has been brought to the notice of the  
Court that on the date of the incident i.e. 5th December  
1993, the applicant was less than 18 years of age and was  
therefore deemed to be juvenile in terms of the amendment  
made in 2000 in the Juvenile Justice (Care and Protection  
of Children) Act, 1986. In the application several facts  
to show the applicant was indeed a juvenile have been spelt  
out. Notice was issued on the application and the CBI has  
also filed its reply thereto. In the reply there is no  
denial of the fact that the applicant was indeed a juvenile  
being less than 18 years of age on the date of the

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incident. We therefore see that as of today his continued  
incarceration in jail was completely without authority of  
law. In normal circumstances we would have remitted this  
matter to the Juvenile Board for further proceedings but in  
the light of the fact that the appellant has served out

more than 17 years of the sentence, the remittance of the case to the Juvenile Board is completely uncalled for. accordingly direct that he be released forthwith.

Crl.M.P. 2895/2009 is allowed in the above terms.

No further orders are necessary.

In Crl.A.No.546/2004

During the course of arguments it was pointed out by Mr. Sushil Kumar, the learned senior counsel for the appellant, that although several factual and legal issues arise in this matter but as the appellants have undergone more than 17 years of the sentence and in the peculiar facts of the case that have been pointed out during the course of hearing it was appropriate that the Government itself should exercise the powers conferred on it under Section 433 of the Code of Criminal Procedures to commute the sentence.

On the last date Mr. Malhotra, the learned Additional Solicitor General, had sought time to get instructions and the matter was fixed for hearing today.

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It appears that the learned Additional Solicitor General was under a misconception that we had asked him to get instructions on the plea that the appellants be pardoned. This is not what was intended by us. We make it clear that the exercise of the power of the Government under Section 433 is what had been requested by Mr. Sushil Kumar. Mr. Malhotra seeks time to get instructions on this aspect.

List on 31/3/2011 at 2.00 p.m.

.....J.  
(HARJIT SINGH BEDI)

.....J.  
(CHANDRAMAULI KR. PRASAD)

New Delhi,  
March 9, 2011.