

HIGH COURT OF DELHI: NEW DELHI

**+ BAIL APPLICATION Nos. 306/2010, 311/2010,
312/2010 and 313/2010**

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SAJJAN KUMAR

.....Petitioner

Through: Mr.I.U.Kahn, with Mr. Amit Anand
Tiwari, Mr. Vineet Malhotra, Mr.
S.A. Hashmi, Mr. Anil Kumar
Sharma, Mr. Vivek Singh, Mr. Anuj
Kr. Sharma, and Mr. Apoorava
Kumar Sharma, Mr. Vikas Yadav,
Advocates

Versus

THE STATE (THROUGH C.B.I.)

.....Respondent

Through: Mr. R.S. Cheema, Sr. Adv. with Mr.
D.P. Singh, Mr. Vikas Pahwa,
Standing Counsel, Mr. K.S. Nalwa,
Mr. Saurabh Soni, Mr. Biswajit
Kumar Patra and Ms. Tarannum
Cheema, Advocates for CBI.

Mr. K.K. Sud, Sr. Advocate and Mr.
H.S. Phoolka Sr. Advocate with Ms
Kamna Vohra, Ms. Sunita Tiwari
and Mr. Kanwar Faisal, Advocates
for the complainants.

AND

BAIL APPLICATION No. 307/2010

MAHENDER YADAV & ORS.

.....Petitioners

Through: Mr.Amarendra Sharan,Sr.Adv.
with Mr.I.U.Khan,Mr.S.A.Hashmi &
Mr.Anil Kumar Sharma,Adv.

Versus

THE STATE (THROUGH C.B.I.)

.....Respondent

Through: Mr. R.S. Cheema, Sr. Adv. with Mr.
D.P. Singh, Mr. Vikas Pahwa,
Standing Counsel, Mr. K.S. Nalwa,
Mr. Saurabh Soni, Mr. Biswajit
Kumar Patra and Ms. Tarannum
Cheema, Advocates for CBI.

Mr. K.K. Sud, Sr. Advocate and Mr.
H.S. Phoolka Sr. Advocate with Ms
Kamna Vohra, Ms. Sunita Tiwari
and Mr. Kanwar Faisal, Advocates
for the complainants.

AND

**BAIL APPLICATION Nos. 308/2010,
309/2010 and 310/2010**

BRAHMANAND GUPTA & ORS.

.....Petitioners

Through: Mr.Amarendra Sharan,Sr.Adv.
withMr.Anil Kumar Sharma, Adv. &
Mr.Apporav Kumar Sharma, Adv.

Versus

THE STATE (THROUGH C.B.I.)

.....Respondent

Through: Mr. R.S. Cheema, Sr. Adv. with Mr.
D.P. Singh, Mr. Vikas Pahwa,
Standing Counsel, Mr. K.S. Nalwa,
Mr. Saurabh Soni, Mr. Biswajit

Kumar Patra and Ms. Tarannum Cheema, Advocates for CBI.

Mr. K.K. Sud, Sr. Advocate and Mr. H.S. Phoolka Sr. Advocate with Ms Kamna Vohra, Ms. Sunita Tiwari and Mr. Kanwar Faisal, Advocates for the complainants.

Judgment reserved on: 22nd February, 2010

Judgment delivered on: 26th February, 2010

Coram:

HON'BLE MR. JUSTICE A.K. PATHAK

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Not necessary |
| 2. To be referred to Reporter or not? | Not necessary |
| 3. Whether the judgment should be reported in the Digest? | Not necessary |

A.K. PATHAK, J.

1. All the above noted anticipatory bail applications are being disposed of together as these involve similar facts and arise from the same charge sheets.

2. Petitioners are seeking anticipatory bail in the cases arising from FIRs registered by the Central Bureau of Investigation (CBI), details whereof are as follows:-

- A. FIR No.RC SI 1 2005 S 0024 dated 22.11.2005 under Section 109 read with 147/148/149/153-A/295/302/396/427/436/449/505 and 201 IPC.
- B. FIR No.RC-7 (S)/05/SCB-II/DLI 2005 dated 17.11.2005 under Sections 147/148/149/395/396 and 188 IPC.
- C. FIR No.RC-8 (S)/05/SCB-II/DLI 2005 dated 28.11.2005 under Sections 147/148/149/436/427 and 395 IPC
- D. FIR No.RC-25 (S)/05/SCU-I/SCR-I/DLI 2005 dated 22.1.2005 under Sections 147/149/302/201/395 and 436

3. Brief facts, which lead to registration of aforesaid FIRs, are that on 31st October, 1984 the then Prime Minister Smt. Indira Gandhi was assassinated by her personal security guards, belonging to Sikh Community. As a backlash to this unfortunate incident, large number of anti social elements indulged in looting, arson and killing of innocent persons belonging to Sikh Community throughout the country. Such like incidents also took place all over Delhi.

4. This case pertains to the incidents which took place in Sultanpuri and Delhi Cantt. area wherein several persons belonging to Sikh community were slaughtered in a brutal, ruthless and cold blooded manner. With regard to such incidents FIRs were registered by the Delhi Police from time to time. Two FIRs were registered immediately. Later on some other FIRs were registered on the basis of reports of enquiry Commissions/Committees.

5. FIR No.250/1984 under Sections 147/148/149/395/396/188 IPC was registered at the police station Sultanpuri on 1st November, 1984 against unknown persons.

6. FIR No.416/1984 under Sections 147/148/149/302/427/436 IPC was registered at police station Delhi Cantt. on 4th November, 1984 against the unknown persons on the complaint of one Baljeet Kaur. During investigation of this case by the Delhi Police some more complaints were received and the same were clubbed with this FIR.

7. FIR No. 347/1991 under Section 147/148/ 149/302/ 201/395/436 IPC was registered on 13th December, 1991 on the

basis of affidavit filed by one Joginder Singh before the Jain-Banerjee Committee on 23rd July, 1987.

8. FIR No.307/1994 under Section 147/148/149/436/427/395 IPC was registered at police station Sultanpuri, Delhi on 14th June, 1994 on the basis of affidavit dated 9th September, 1985 filed by one Anek Kaur before the Rangnath Mishra Commision.

9. After investigation, Delhi police filed closure reports in FIR No.347/1991 and FIR No.307/1994, which were duly accepted by the concerned court, after recording the statement of complainants.

10. So far as FIR No.250/1984 registered at police station Sultanpuri is concerned, after investigation, four charge sheets and one supplementary charge sheet was filed against 25 accused which included some of the petitioners as well. After full-fledged trial all the 25 accused were acquitted.

11. So far as FIR No.416/1984 registered at police station Delhi Cantt. is concerned, after investigation, Delhi Police filed seven charge sheets against several accused including some of the petitioners. After a full-fledged trial, accused were acquitted.

However, one charge sheet remained pending in view of subsequent FIR registered by the CBI.

12. Jain-Banerjee Committee headed by Hon'ble Mr. Justice M.L.Jain and Poti-Rosha Committee headed by Hon'ble Mr. Justice P.S.Poti, on the basis of affidavit of Smt.Anwar Kaur, wherein it was alleged that Sajjan Kumar had instigated the mob by giving provocative speeches and thereafter, led the said mob in the area of Sultanpuri where the members of unlawful assembly set the properties belonging to Sikh community on fire and killed the male members including her husband, recommended appropriate action. On the basis said report, CBI registered RC 1/90 SIV.II/SIC 1/New Delhi and after investigation filed charge sheet in the court of learned Additional Sessions Judge, New Delhi against the petitioner Sajjan Kumar, Brahmanand Gupta, Perea Ram, Mahinder Singh Yadav and eight more accused. After trial, learned Additional Sessions Judge acquitted all the accused including the petitioners on 23rd December, 2002. An appeal against this acquittal order is pending in this court.

13. While CBI was investigating the aforesaid case petitioner Sajjan Kumar, apprehending arrest, approached this court seeking anticipatory bail which was granted to him vide judgment Sajjan Kumar Vs. State reported in 43 (1991) DLT 88, wherein in paragraphs 10 to 14 and 17 it was observed as under:-

(10) However, keeping in view the persistent demand of the so called voluntary organization, the Government of India on 26th April, 1985, appointed Mr. Justice Ranganath Misra, sitting Judge of the Supreme Court to thoroughly investigate the happening after the death of Mrs. Indira Gandhi, and to find out, as to whether there was any organized mob violence at the behest of Congress workers and if there was, then suggest ways and means to punish the guilty. During the commission proceedings, Justice Misra accorded recognition to the PUCL and the Citizens Justice Committee. The members of the said two committees personally went to places of incidents, to the camps where the inmates had been shifted and to various other places where many inmates had taken refuge. They collected many affidavits of the eye-witnesses and of the victims of assault including the next door neighbours of Anwar Kaur. On thorough examination of the affidavits, and other material placed on record, the commission came to the conclusion:-

“The news shows in clearest terms that rioting in proper sense had started in a very big way in several parts of the city on 31st evening and except for killing which came into process from 1st November, 1984, every other form of attack on Sikhs

had begun. The massive scale on which the operation had started so soon after the fact of death was circulated is clearly indicative of the fact that it was the spontaneous reaction of the people at large. The short span of time that intervened would not have permitted scope for any organizing to be done. The gloom that had spread and affected the Congressmen in particular would not have permitted any such organization to be handled. The reaction appears to have come as a flutter and sparked everywhere in a similar pattern.”

(11) The Commission further concluded that no responsible person in authority of Congress-I hatched any conspiracy or organized large scale rioting, looting, killing, etc. in various parts of Delhi. In fact, the anti-social elements had taken the lead. The commission was further of the opinion that in spite of vast publicity, many persons have not come forward to depose about the actual happening between 1st and 7th November, 1984. The Commission recommended new committee be appointed to go through the individual cases of omission of non-registration of cases by the local police.

(12) Pursuant to the report of the Justice Ranganath Misra Commission, Delhi Administration by notification of February 21, 1987 constituted a Committee comprising of M.L.Jain former Judge of this court and Shri A.K.Banerjee, a retired officer of the Indian Police Service to examine inter alia, whether there were cases of omission to register or properly

investigate offences committed in Delhi during the period of riots from October 31 to November 7, 1984, and to recommend the registration of cases where necessary, monitor the conduct of investigation and follow-up of cases already registered, suggest effect steps, including fresh and further investigations, etc. The said committee considered the affidavit of Shrimati Anwar Kaur and was prima facie of the opinion that the affidavit disclosed the Commission of offences punishable under Sections 143, 147, 148, 149, 302, 436, 435, 455, 201, and 211 of the Indian Penal Code. The committee consequently by letter dated 14.10.1987, wrote to the Delhi Administration proposing that the FIR in this regard maybe registered and investigated in accordance with law.

(13) That pursuant to the recommendation of the Jain-Banerjee Committee, a co-accused of the petitioner namely Shri B.N.Gupta filed a writ petition being CWP No.3327/1987. While issuing notice, the court restrained the registration of cases upon the direction of the Jain-Banerjee Committee. After hearing the parties at length, this court vide judgment and order dated October 4, 1989 allowed the writ petition.

(14) On March 22, 1990, the Delhi Administration appointed another Committee comprising Mr.Justice P.S.Poti, former Chief Justice of Gujarat High Court and Shri P.A.Rosha, a retired officer of the Delhi Police service for the same purpose. This Committee on August 8, 1990, recommended to the Administrator, Union Territory of Delhi that a case be registered and investigated by the CBI in relation to the omission to register a case and to investigate the offences alleged to have been

committed in the affidavit of Smt.Anwar Kaur. The Administrator after due consideration accepted the recommendation and directed the CBI vide his letter dated 5.9.1990, to take further action in accordance with law. Upon the receipt of the said letter, the CBI on September 7, 1990, registered the FIR in question against 6 accused persons, including the petitioner. Immediately thereafter, the respondent-CBI recorded the statements of three so-called eye-witnesses of the occurrence and on 11th September, 1990, organized a raiding party to search the house of the petitioner and arrest him.

(17) Thereafter, very respectable, responsible and public Spirited members of the PUCL and Citizens Justice Committee, including Mr.Justice S.M.Sikri, a retired Chief Justice of the Supreme Court, Mr.V.M.Tarkunde a former Judge of the Bombay High Court, Mr.Soli J.Sorabji, Sr.Advocate, Air Chief Martial Arjun Singh (Retd.), now the Lt.Governor of Delhi and Lt.Gen. J.S.Arora (Retd.) and many others, had gone to the area and other places, where the affected persons have been settled to get hold of their affidavits in regard to the incidents of rioting which took place in the first week of November, 1984. At that point of time Anwar Kaur was admittedly living in the camp. Even though the statements of neighbours of Anwar Kaur, namely, Dhoan Kaur resident of A-4175, Sultanpuri, Padmini Kaur, A-41164, Ram Kaur of A-41162, and Sumer Singh resident of A-4/129, were recorded but she did not come forward to make any statement. For this lapse, there is no explanation.

14. It appears that certain voluntary organizations having remained dissatisfied with the action taken by the Government with regard to the carnage which took place in the year 1984, resulting in the killing of several innocent persons of Sikh community, persisted the Government to further probe into the matter, as a consequence whereof, "Nanavati Commission" was constituted in the year 2000, vide notification No.441(E) dated 8th May, 2000. Justice Nanavati submitted its report to the Government on 9th February, 2005 wherein it was observed as under:-

"The Commission is, therefore, inclined to take the view that there is credible material against Shri Sajjan Kumar and Shri Balwan Khokhar for recording a finding that he and Shri Balwan Khokhar were probably involved as alleged by the witnesses. The DSGPC and CJC have also drawn the attention of the Commission to some cases where Shri Sajjan Kumar though named was not chargesheeted or they were closed as untraced. No useful purpose can now be served by directing registration of those cases where the witnesses complaining about the same were examined before the courts and yet the other accused were acquitted by the Courts. The Commission therefore recommends to the Government to examine only those cases where the witnesses have accused Shri Sajjan Kumar specifically and yet no chargesheets were filed against him and the cases were terminated as untraced and if there is justification for the same take further action as is permitted by law. Those cases which were closed as

untraced and which still deserve to be re-examined are those which would arise from FIR Nos. 250/84, 307/94 and 347/91 of police station Sultanpuri, FIR Nos. 325/93, 178/84 of police station Mangolpuri and FIR No. 416/84 of police station Delhi Cantt”.

15. In view of the findings of Nanavati Commission, Government of India on 24th October, 2005 directed the CBI to reinvestigate the cases concerning involvement of petitioner Sajjan Kumar and others in FIR Nos.250/1984, 347/1991 and 307/1994 of police station Sultanpuri and FIR No.416/1984 of police station Delhi Cantt. Accordingly, CBI re-registered the cases as detailed in Para 2 hereinabove and investigated the same.

16. During the investigation CBI recorded statements of relatives of the victims which also included the witnesses, whose statements had already been recorded in earlier cases. Besides this, as per the CBI some new witnesses had also come forward having witnessed the incident of arson and killing. On the basis of material collected during the investigation, CBI was of the view that a case was made out against the petitioners for having committed offences as mentioned in the abovesaid FIRs. Consequently, one composite charge sheet was filed in respect of three FIRs pertaining to the

incidents which took place within the jurisdiction of police station Sultanpuri and one separate charge sheet was filed in respect of the incidents which took place within the jurisdiction of police station Delhi Cantt.

17. As per the respondent, anticipatory bail application under Section 438 Cr.P.C. is not maintainable as not only the charge sheets have been filed but cognizance against the petitioners for the offences, inter alia, under section 302 IPC had also been taken by the learned ACMM. Per contra, learned senior counsel for the petitioners argued that the anticipatory bail cannot be denied merely on the ground that the challan had been presented. Reliance has been placed on Ravinder Saxena vs. State of Rajasthan reported in (2010) 1 SCC 684 and Bharat Chaudhary & Anr. vs. State of Bihar & Ors. reported in (2003) 8 SCC 77.

18. In Ravinder Saxena's case (supra), Supreme Court held that denial of anticipatory bail on the ground that the challan had been presented would not satisfy the requirements of Sections 438 Cr.P.C.

19. Similar view has been taken in Bharat Chaudhary's case

(supra) wherein it was held that the fact that a court has either taken cognizance of the complaint or the investigating agency has filed a charge sheet, would not by itself, prevent the courts concerned from granting anticipatory bail in appropriate cases.

20. There is yet another angle in this case making the anticipatory bail application maintainable, that under Section 437 (1)(i) Cr.P.C. learned Metropolitan Magistrate is not empowered to grant bail in the cases where offences punishable with life imprisonment or death, as the case may be, are involved. In such a scenario, if petitioners appear before the learned A.C.M.M., they are bound to be detained in judicial custody, which, by itself, negates the concept of anticipatory bail as envisaged in Section 438 Cr.P.C. Accordingly, in my view present anticipatory bail applications are maintainable.

21. Mr. Amarendra Sharan, learned senior counsel for the petitioners, has contended that admittedly, present FIRs have been re-registered by the CBI pursuant to the report of Nanavati Commission in respect of the incidents which were already the subject matter of the earlier FIR's registered and investigated by the Delhi Police. In the cases arising from FIR No.250/1984

Police Station Sultanpuri and FIR No.416/1984 Police Station Delhi Cantt., all the accused including the petitioners were acquitted after a full-fledged trial. So far as FIR No.347/1991 and FIR No.307/1994 are concerned, closure reports were filed after investigation and duly accepted by the Metropolitan Magistrate. In respect of same incidents CBI could not have registered fresh cases merely on the basis of Nanavati Commission report. Earlier FIRs could not have been re-registered or re-opened by the CBI in respect of the incidents which were duly investigated and wherein for lack of evidence petitioners were acquitted. After registration of a FIR and commencement of investigation therein, registration of second FIR in respect of same incident and making fresh investigations pursuant thereof was hit by Section 300 of Cr.P.C., which provides that a person once convicted or acquitted by a competent court cannot be tried again for the same offence arising out of the same set of facts. According to learned senior counsel, charge sheets filed by the CBI are vitiated in law and liable to be quashed. Reliance has been placed on T.T.Antony vs. State of Kerala & Ors. reported in (2001) 6 Supreme Court Cases 181.

22. He has further contended that after petitioners had already been acquitted with regard to the occurrence of same incidents on the basis of evidence adduced by the prosecution, CBI could not have launched another prosecution on the same facts in respect of the same incidents merely because one or the other person surfaces from time to time and claims himself to be an eye witness to such an incident, even though they had failed to participate in the earlier investigation. If this practice is permitted then it will result in harassment of an accused who has secured an acquittal after trial as he may have to face trial after trial in respect of same incident only because one or the other person, for mala fide reasons, surfaces claiming himself to be an eyewitness. He has further contended that whole case is politically motivated in order to gain political mileage. Petitioners after having faced trial and securing an acquittal, if put to trial again, the same will result in their persecution and not prosecution.

23. Learned counsel for the CBI has contended that merely because earlier investigation was conducted in respect of the same incidents and the challans had been filed wherein petitioners

secured acquittal and in two FIRs closure reports were accepted, by itself, would not debar the CBI to re-register the cases in respect of the same incidents and to re-investigate the matter. Second FIRs are legal as Delhi Police had not investigated the matter regarding the role played by petitioner Sajjan Kumar, in having instigated the mob by giving provocative speeches which led to the rampage being committed by the mob by looting and burning the properties and killing the members of Sikh community. In nutshell it is contended that second investigation in respect of same incident was permissible as the same was on a larger canvas and broader aspect of conspiracy. Reliance has been placed on Nirmal Singh Kahlon vs. State of Punjab & Ors. Reported in (2009) 1 Supreme Court Cases 441.

24. I need not delve upon the above contentions of the learned counsel regarding the competence of registration of second FIR, its legality and validity, while deciding the present anticipatory bail applications. Whether second FIRs are liable to be quashed or not, is not a question involved in these applications. However, this fact

may weigh as one of the factor for deciding as to whether petitioners are entitled to anticipatory bail or not.

25. Learned counsel for the petitioner Sajjan Kumar has contended that incident took place in the year 1984 and in the earlier FIRs registered by Delhi Police, none of the witnesses examined therein had named the petitioner as being the one who had instigated the mob to burn the properties, loot and kill the persons of Sikh community. His name, for the first time, surfaced during Jain-Banerjee Committee which recommended registration of case and pursuant whereof case vide RC 1/90 was registered by the CBI, which culminated in trial before the learned Additional Sessions Judge and subsequent acquittal of the petitioner since witnesses were not found trustworthy and reliable. Some of the witnesses, who had earlier not named the petitioner, have now implicated him, which, itself shows that they have improved their version for obvious reasons and at the behest of someone. New witnesses, who have now surfaced, after lapse of more than twenty five years cannot be believed. Petitioner, all along cooperated in the investigation conducted by CBI during the last 5 years. No

material is there to show that petitioner influenced or threatened the witnesses. Delay in making the statements is required to be explained during trial and the veracity of these witnesses have to be tested when they enter the witness box. Investigation is over and that the presence of petitioner is not required therein. After lapse of 25 years from the date of the incidents, petitioner, if detained during the trial, will result in great injustice to him.

26. As against this, Mr.R.S.Cheema, learned senior counsel for respondent has contended that petitioners are involved in serious offences of murder, arson and rioting. Petitioner Sajjan Kumar had organized a mob and targeted the persons of Sikh community; instigated the said mob to kill and burn the houses of members of Sikh community. The incident of arson, looting, killing of male members of Sikh community was perpetrated in a barbaric, inhuman and cold blooded manner, as a consequence whereof victims were isolated, felt insecure, threatened and at that time had no courage to go before the investigating agency or the court to make a statement against the culprits. Some of the close relatives of the deceased persons had migrated to Punjab. They had no

courage to return to Delhi, so as to make a statement before the court or the investigating agency. With the passage of time they mustered up the courage and approached the Commission and filed their affidavits. All these years the truth was not allowed to come to surface which shows the pervading influence which the local administration had over the whole matter, as petitioner Sajjan Kumar was holding high political position. Accordingly, delay of 25 years in this case will be of no consequence.

27. Learned senior counsel has further contended that if petitioners are granted bail witnesses will not be able to depose freely; the confidence of people in the system will erode and a fallacious message will go that these petitioners are above the law. In case petitioners are granted bail it will hamper the fair trial, inasmuch as, the witnesses may not come forward to depose in the matter and/or they may be threatened or influenced by the petitioner. In nutshell, it is contended that in the facts of this case, bail cannot be granted.

28. From what has been stated hereinbefore, it is clear that in respect of the same incident four FIRs were registered earlier and

the same were investigated by the Delhi police and statement of witnesses were recorded. In two FIRs, closure reports were filed which were duly accepted by the learned Metropolitan Magistrate after recording statement of complainants. In two other FIRs as many as ten charge sheets were filed in the court of learned Additional Sessions Judge. After full fledged trial accused involved therein, were acquitted, which included the petitioners as well. So far as petitioner Sajjan Kumar is concerned, he was not sent up to face trial in the FIRs registered by the Delhi Police. A separate case was registered against him in the year 1990 by CBI pursuant to the recommendation of abovereferred Committee, wherein role was ascribed to him that he had instigated the mob by holding public meeting in the Sultanpuri area and thereafter, he led the mob which went on rampage and burnt the properties; looted the belongings and killed several persons belonging to Sikh community. However, after a full fledged trial this petitioner was also acquitted in the said case. Several witnesses, whose statements have been recorded by the CBI had also made statements in earlier FIRs. Present FIRs are relating to the same incidents which were involved in earlier cases. Some more

witnesses have come forward and made statements implicating the petitioners. So far as other witnesses, who are common in earlier FIRs as well as in the present FIRs, have again made statements implicating the petitioners, however, their version had already been tested in earlier cases sent for trial. The new witnesses have to explain as to why they did not come forward earlier, during the trial.

29. Be that as it may, the statement of such witnesses cannot be brushed aside completely at this stage but at the same time, they have to explain during trial as to why they had not deposed against the petitioner on earlier occasions. 25 years have gone by and this delay undoubtedly tilts the balance in favour of the petitioners, at least for the purpose of grant of bail to them.

30. I do not find much force in the contentions of learned senior counsel that in case petitioners are enlarged on bail it will hamper fair trial and witnesses may not depose against the petitioners due to the fear and threat. Admittedly all along for the last 25 years petitioners have remained at large as they were not in custody. CBI conducted investigation almost for about five years. During

this period, CBI did not deem it fit to arrest any of the petitioners. In spite of petitioners being at large, witnesses came forward and made statements before the CBI. There is no specific allegation against the petitioners of having threatened or influenced any of the witnesses, so as to refrain any of them from making statement against them. Besides this, it is evident from the facts narrated herein above that after the unfortunate and appalling incident the relatives or the family members of victims were not left alone to fend for themselves as members of various Commission/Committees including eminent jurists had been visiting the affected areas and even met the families of the victims residing in camps and interacted, counselled, encouraged, offered support to them right from the beginning.

31. Indeed, it is true, that offence with which petitioners have been charged by the CBI is of grave nature and ordinarily in such cases courts would be slow in admitting the accused on anticipatory bail, in the face of statements of eye witnesses. However, in the peculiar facts and circumstances of this case and for the reasons as mentioned in the preceding paras hereinabove, I

am of the view that it would not be justifiable to detain the petitioners in custody, after lapse of 25 years of incident.

32. Accordingly, it is ordered that in the event of their arrest, petitioners shall be released on bail, subject to furnishing personal bond in the sum of Rs.50,000/- each with one surety in the like amount to the satisfaction of Investigating Officer/Arresting Officer/SHO.

33. All the bail applications are disposed of in the above terms.

34. Any observation made in this order will have no bearing on the merits of the case.

35. Dasti.

A.K. PATHAK, J

February 26, 2010

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