

Memorandum for Justice

Regarding 2006 Malegaon Bomb Blast Case

To whom it may so concern

You're Excellency,

1) On 08.09.2006, four bomb explosions had occurred at Malegaon on the occasion of the Friday Prayer, (three in Hameediya Masjid Bada Qabrastan Premises & one at Mushawarat Chowk) in which 31 persons were killed & 312 persons were injured. It seems an attack on Muslim Minorities for their atrocity to deprive them from their constitutional rights. Further on 13.09.06, one fake bomb was found at Muhammadiya Masjid Shopping Complex at Malegaon.

2) The case was initially investigated by the local police & the SIT toward the right direction by releasing the sketches of the suspected persons who had bought the bicycles to plant the bomb. To implicate the innocent, religious, educated, peaceful & patriot social reformers, and to provide protection to the actual culprits, the investigation of the case was transferred on 23.10.06, to the ATS-Mumbai who had neglected the key points indicating towards the actual culprits. As a result unfortunately, some innocent Muslim youths were arrested under various sections of MCOCA to obtain concoct custodial confessional statements to use as evidence against them & their co accused. In a copy of the circular issued by the Home Department State of Maharashtra, obtained through RTI, it is stated that ATS is formed to curb those who are active against terrorist. It means that ATS & their formers were terrorist who implicated innocent antiterrorist persons on false allegations. The circular was revised after the intervention of the confined journalist Mr. Ketan Tirodkar.

4) Chapter XIII of the Cr.P.C. provides u/s 177 that every offence shall ordinarily be inquired into & tried by a Court within whose local jurisdiction it was committed. Same is repeated u/s 6 of the MCOCA that every offence punishable under this act shall be triable only by the Special Court within whose local jurisdiction it was committed. Local jurisdiction is Malegaon Dist. Nashik. There was Session Courts in Malegaon. There was Special MCOCA court in Nashik. To deprive the innocents from proper & on time legal aid, the case has presented before the Session Court of Mumbai which is 300 km away from Malegaon. Note that the seven arrested accused are the inhabitant of Malegaon. It is a clear violation of the law and an attempt to deprive from the justice. There was office of the ATS in Malegaon. To defame the patriot, antiterrorist, peaceful Muslim Minorities, the innocent Muslims were arrested & kept in Mumbai instead of Malegaon to scapegoat them. There is sub jail in Malegaon, Central Jail in Nashik. To deprive from their human rights the accused were confined in the Jails of Mumbai & Ratnagiri (More than 700km away from Malegaon) instead of Malegaon & Nashik.

5) As the allegations, made by the ATS on the arrested Muslims, were false, therefore the public & their representatives had not relied on the investigation of the ATS-Mumbai, and demanded to transfer the case to the CBI. Ultimately the Govt. had not trusted on the investigation of the ATS-Mumbai and the further investigation was transferred to the CBI-STF-Mumbai with in two months of the Investigation by the ATS. Thus the ATS is withdrawn agency

in this case. And the withdrawn agency has no right to argue or to prosecute in this case before the Court. But to impede the way of justice, to insult the law and to suppress the truth, the withdrawn agency ATS Mumbai is opposing the discharge of the Nine Accused against whom the evidence presented by the ATS are found false & concoct by the supreme agency. NIA has arrested some other persons in this case and submitted that there is no evidence against the Muslim accused.

6) There was a possibility of the Discharge u/s 169 of the Cr.P.C. by the CBI. It was published by the print & electronic media on 20/12/06 that the State has decided to transfer the case to the CBI. To block the way of discharge by the further investigation of the Superior Central Agency, the ATS had filed biased, concoct and incomplete charge sheet u/s 173 of the Cr.P.C. on 21.12.06 with in 59 days, with a lot of prejudice, very earlier of the time limit of 180 days provided u/s of the MCOCA 1999.

7) The CBI has taken the charge of the case on 13.02.06. By filing concoct charge sheet, the ATS has misdirected the CBI towards wrong direction therefore the CBI could not find any additional evidence in period of 62 months against the Muslim accused till 04.04.11 except the recorded conversation between A/9 & A/8 which has found false when the statement of Mr. Hamid Iqbal, a friend of A/9, disclosed that it was conversation between A/9 and him under duress of the police. The investigating agency was changed, but the Special Public Prosecutor of the ATS Ld. Advocate Mr. Raja Thakare & his assistant Ld. Advocate Mr. Chimalkar were kept appointed by the CBI. Now the State was represented by the CBI for this case & the ATS was withdrawn.

8) In December 2010, Swami Aseemanand disclosed in his Judicial Confession that the blasts in 2006 at Malegaon were exploded by Sunil Joshi & his associates. His confession was recorded by The Ld. Metropolitan Magistrate of Delhi u/s 164 of the Cr.P.C. in Mecca Masjid Bomb Blast Case which was also investigated by the CBI and in which initially some Muslims were prosecuted finally discharged & acquitted and Swami Aseemanand and his associates were arrested by the CBI. On his disclosure, the CBI admitted the mistakes before media, and the Govt. of India vide MHA orders dated 22.03.11 & 04.04.11 directed the NIA to take over the case for further investigation u/s 6(5) of the NIA act 2008.

9) After taking over the investigation, the NIA had interrogated with all the nine Muslim accused and subjected them for scientific tests like Brain Mapping, Lie Detection & some other psychosomatic tests to confirm the truth at FSL Gandhi Nagar Gujarat in judicial custody with the voluntary consent of the nine Muslim Accused. And the Muslim accused had submitted before the court that to prove their innocence they are ready to face all types of scientific & other tests. NIA has appointed Ld Advocate Mrs. Rohini Shalloni as Spl PP instead of the Spl. PP of the ATS & the CBI Ld. Advocate Mr. Raja Thakare.

10) After the receipt of the reports from the FSL, the NIA had decided not to oppose release of these nine accused on bail. Finally the court granted bail in November 2011 and 7 Muslim Accused were released on bail.

11) In sequence of the further investigation, the NIA has arrested some associates of Mr. Sunil Joshi with unrebuttable evidences to corroborate the content of the Judicial Confession of Aseemanand. And submitted the supplementary charge sheet u/s 173 of the Cr.P.C. in June 2013 against (1) Manohar Ram Singh Narwaria (2) Rajendra Vikram Singh Choudhary (3) Dhan Singh (4) Lokesh Sharma (5) Sunil Joshi (6) Ramchandra Kalsangra and (7) Sandeep Dange out of them two are same as the sketches released during the course of initial investigation by the local Police & the SIT before the ATS. It was the ATS who had misguided the investigation towards the wrong direction to protect the actual culprits & to implicate the innocents. It is strongly felt by public that there are criminal symbiosis in between ATS or its directives and the actual culprits.

12) In its supplementary charge sheet, the supreme agency of the case, has given clean chit to the Nine Muslim Accused by stating reasons for it. In its say on Exhibit 501, 505 & 508, the NIA submitted that "the evidence collected by the NIA in further investigation is not in consonance with the evidence collected earlier by the ATS and the CBI. No evidence was found in support of the conclusion drawn in final report filed by the ATS & supplementary final report submitted by the CBI recommending prosecution of A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8 & A-9." Copy is attached as Annexure A.

13) At the time of filing the charge sheet of the NIA, Ld. Advocate Mrs. Geeta Godambe was placed as the PP of the NIA instead of Mrs. Rohini Shallioni. Now Ld. Advocate Mr. Prakash Shetty is added as Spl PP of the case. In her interview Rohini alleged that some authorities are compelling her to ease the prosecution against the Hindu Terrorist of the Malegaon Bomb Blasts cases, and she was going to withdraw the charges against the Muslim accused for their discharge, she was set aside from the case. Now some documents in respect of the Malegaon Bomb Blast case has been lost from the court record. Current activities of the NIA along with ATS & its Spl. PP Mr. Raja Thakre are showing that it is looking any point to take 'U' turn from the truth disclosed by it.

14) False conclusion drawn in the final report by the ATS alleged on the basis of the retracted concoct custodial confessions of the co accused on A-5-Dr. Farogh Iqbal Makhdoomi that he has attended conspiracy meetings as conspirator at the Godown of A-2 which is located more than 3 km away from his clinic & residence. On the dates & times mentioned for the meetings, he was treating many patients in his clinic. Sr. no. 53 & 54 of Annexure-C on page no. 80 of the Supplementary Charge sheet filed by the NIA consist on the date wise patient record register as list of material objects which shows his presence at his clinic on the alleged dates & at the alleged time of the meeting. During ten years of the investigation, no iota of evidence found to corroborate the allegations made on him. His confession is proving his innocence. His confession is not in consonance of the confessions of other co accused. His confession is showing prejudiced minds of the recording officers, in which the DCP had tried to state Jihad instead of Zakat (the tax, the charity). On his resistant, the Jihad is corrected by Zakat by cutting the word jihad where signatures of both the accused & the DCP are penned. Thus there is no sufficient ground to proceed against him. Hence at the time of his arrest he

was appeared in the 3rd paper of FYMA of Maulana Aazad National Urdu University. In the last 4th paper he was not appeared on 08.11.06 due to his arrest on 06.11.06. He has score 80% in the appeared subjects. Is it possible a culprit obtain 80% marks in PG? He has completed his MA & appeared for PhD exam of Mumbai University during his confinement. By his efforts, he has established study circles of Indira Gandhi National Open University-IGNOU in Mumbai Central Prison to promote education amongst the prisoner for their reformation. During the confinement he was emerged as a Jail Reformer, RTI & Human Rights Activist. By his efforts he has convinced many culprits to give up their crimes. Hence after the blasts, before his arrest, he was selected, by the Central Hajj Committee of the Govt. of India, for the Hajj pilgrimage of 2006-07. He was & he is very well known medical practioner of the Malegaon. He was 8th rank holder of the State Merit List of the SSC Pune Board Exam in 1989 with 92.14% marks. He was 1st rank holder in Urdu subject of the Pune HSC Board Exam of 1991. How such an eminent person may involve in such a horrible offence?

15) Section 321 of the Cr.P.C. provides that "the Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and upon such withdrawal,- (a) If it is made before the charge is framed , the accused shall be discharged in respect of such offence or offences."

16) In view of the aforesaid submission, we are requesting into your honor to take appropriate action to ensure the expeditious justice by disposing the case as early as possible conferred under various articles of our constitution. Note that the Hon'ble Supreme Court of India quoted that Justice delayed means justice denied. It is need of the justice to withdraw the charges & allegations made by the ATS & the CBI on the innocent Muslim accused from the prosecution u/s 321(a)(ii) of the Cr.P.C. without any further delay.

With due respect for sake of justice submitted by:

- 1) The President and Representatives of All religious sects of Muslim Community known as Kul Jamaati Tanzeem Malegaon Headed by Mr. Abdul Hameed Azhari Saheb.
- 2) All India President and Representatives of Religious Scholars Group – Jamiatul Ulama e Hind at Delhi. (Both Arshad Madani & Mahmood Madani Group)
- 3) All Maharashtra State President, Legal Cell Expert and Representatives of Religious Scholars Group – Jamiatul Ulama e Hind at Mumbai. (All Mustaqueem Aazmi, Gulzar Aazmi & Hafiz Nadeem Siddiqui Group)

- 4) All Nashik District President and Representatives of Religious Scholars Group – Jamiatul Ulama e Hind. (All groups)
- 5) All Malegaon City President and Representatives of Religious Scholars Group – Jamiatul Ulama e Hind. (All Mufti Ismail, Abdul Qaiyyum, Shafiqul Qasmi Group)
- 6) All Maharashtra State President and Representatives of the Followers of the Quran and the authentic sayings & life style of the Holy Prophet Muhammed Peace Be upon Him - the Peace Messenger of the Universe – Jamiat Ahele Hadith Maharashtra.
- 7) All Malegaon City President and Representatives of Jamiat Ahele Hadith.
- 8) All Malegaon City President and Representatives of Jamaat e Islami Hind.
- 9) All Malegaon City President and Representatives of Sunni Jamiatul Islam.
- 10) All Malegaon City President and Representatives of Sunni Dawat e Islami.
- 11) All Malegaon City President and Representatives of Raza Academy.
- 12) All Malegaon City President and Representatives of Shia Asna Asri Jamaat.
- 13) All Malegaon City President and Representatives of Bohra Raushan Khyal Jamaat.
- 14) Janab Abdul Ahad Azhari, Cleric, Qazi of the City & Senior Member – Muslim Personal Law Board.
- 15) Janab Umrain Mahfooz Rahmani, Member – Muslim Personal Law Board.
- 16) Mr. Abu Aasim Aazmi Saheb, MLA- Govandi, Mumbai.

- 17) Mr. Aasif Sheikh Rasheed Saheb, MLA- Malegaon Central.
- 18) Mr. Ibrahim Seth National wale – Mayor – Malegaon Muncipal Corporation.
- 19) Mr. Sheikh Rasheed Sheikh Shafee Saheb, Ex MLA & President Congress Party of Malegaon.
- 20) Mr. Mufti Muhammed Ismail Qasmi Saheb-Ex MLA & President Nationalist Congress Party of Malegaon.
- 21) Mr. Buland Iqbal Nehal Ahmed Saheb, President Janata Dal & Nidharmi Sanghatana Malegaon.
- 22) Janab Asaduddin Owaisi Saheb- MP-Hyderabad.
- 23) Peoples Union for Civil Liberties.
- 24) Nashik District Urdu Patrakar Sangh.
- 25) Urdu Media Centre Malegaon.

Copy to;

- 1) President of India- Delhi
- 2) Prime Minister of India- Delhi
- 3) Union Minister of Home Affairs-Delhi
- 4) Union Minister of Law & Justice-Delhi
- 5) Union Minister of Minorities-Delhi
(Najma Heptullah & Mukhtar Abbas Naqvi, Shahnawaz Husain)
- 6) Chairman, Minority Commission of India-Delhi (Wajahat Habibullah)
- 7) Chairman, Human Rights Commission of India-Delhi
- 8) Director, NIA- National Investigating Agency-Delhi
- 9) Governor of Maharashtra State-Mumbai
- 10) Chief Minister & Home Minister of Maharashtra State-Mumbai
- 11) Law & Justice Minister of Maharashtra State-Mumbai
- 12) Minority Minister of Maharashtra State-Mumbai

13) Chairman, Maharashtra State Minority Commission-Mumbai

14) Chairman, Maharashtra State Human Rights Commission-Mumbai

15) Dr. Subhash Bhamre-MP-Malegaon Dhule.

16) Mr. Zafar Sareshwala, Vice Chancellor, MANU-Maulana Azad National Urdu University
Hyderabad.