

NATIONAL INVESTIGATION AGENCY MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA NEW DELHI.

SUPPLEMENTARY CHARGE SHEET

(U/s 173 Cr.PC)

IN THE COURT OF SPECIAL JUDGE FOR NIA CASES,

STATE (NIA)

V/s

WasimAkram Malik & others

1. Name of the Branch : National Investigation Agency(NIA)

FIR No. : RC-09/2011/NIA/DLI dated 07.09.2011

Year :2011

Date :07.09.2011

2. Final Report/ Charge Sheet No: /2013

3. Date : /07/2013

4. Sections of Law :120B, 121, 121A, 122, 123, 302,307,

323,325, 436 and 440 of IPC, Section 3, 4

& 5 of Explosive substances Act and Section 16, 18, 20 and 38 of Unlawful

Activities (Prevention) Act.

5. Type of Final Report : Charge sheet 6. If Final Report un-occurred-:Not Applicable False/Mistake of fact/ Mistake of law/Non Cognizable/ Civil Nature. 7. If charge sheeted: Original/ : Supplementary Supplementary 8. Name of Investigating Officer : 1) NitishKumar,IPS,SP/NIA 2) JalajShrivastava, DySP/NIA 9.Name of the Complainant /Informant :ShriPawan Kumar, No. D-1187, Inspector, Special Cell/NDR Delhi Police, Lodhi Colony, New Delhi. 10. :As per Annexure "A", "B"&"C" enclosed. Details of properties/ Articles/ Documents recovered/ Seizedduring Investigation and relied upon. 11. Particulars of accused person charge sheeted Name Abu Bilal @ GulamSarwar@ Firdos@ Raju (hereinafter

referred to as A-7)

Whether verified Yes

Father's Name Barket Ali, as reported

Year/Date of Birth 15.12.1979

Sex Male

Nationality Pakistan Passport No. NA
Place of issue NA
Date of issue NA
Religion Islam

Occupation Member of Lashkar-e-Taiba
Address (Present) In upper reaches of Doda –

Kishtwar region

Address (Permanent) Pakistan. However, he was

last seen residing with his wife Ms. xxxxxxx at the

address xxxxxxxx.

Whether verified yes
Provisional Criminal No. NA
Regular Criminal No. (if known) NA

Date of Arrest Not arrested

Date of release on bail NA

Under Acts & Sections (of charge sheet) 120B, 121, 121A, 122, 123,

302,307,323,325, 436 and 440 of IPC, Section 3, 4 & 5 of Explosive substances Act and Section 16, 18, 20 and 38 of Unlawful Activities

(Prevention) Act.

Name(s) of bailer/sureties and address NA

Previous convictions with case reference Charge sheeted by

Udhampur police in FIR No.83/2011dated 02.05.2011

Status of the accused Proclaimed offender

- 12. Particulars of accused persons not charge sheeted: Nil
- 13. (i) Particulars of

Witnessesto be examined: As per the list enclosed as Annexure-A

(ii) List of documents : As per the list enclosed as Annexure-B

(iii) List of articles : As per the list enclosed as Annexure-C

14. If FIR is false, indicate action taken or proposed to be taken u/s 182/211 IPC

: NA

15. Result of laboratory analysis : Enclosed

16. **Brief of the case**:

- 16.1 This case was initially registered as FIR No. 49/2011 dated 07.09.2011 at Police Station Special Cell, NDR, Delhi Police,Lodhi Colony, New Delhi on the basis of a 'Rukka' sent to the Police Station by Shri Pawan Kumar, No. D-1187, Inspector, Special Cell, NDR, Delhi Police Lodhi Colony, New Delhi stating that unknown accused persons committed terrorist acts by carrying out a bomb blast near reception counter, between Gate No. 4 & 5, of Delhi High Court causing death of and severe injuries to a number of persons.
- Subsequently, in compliance of order No.11-11034/39/2011-IS-IV dated 07.09.2011 of Ministry of Home Affairs, Govt. of India, New Delhi, National Investigation Agency (NIA) took over the investigation of case no. 49/2011 dated 07-09-2011 of PS Special Cell, NDR, New Delhi. Accordingly, Crime No. RC-09/2011/NIA/DLI was re-registered by the NIA on 07.09.2011 at 2200 hrs and investigation was taken up.
- 16.3 After conducting investigation of the instant case, NIA filed charge sheet before the Learned Special Judge, NIA, PHC, New Delhi against the six accused persons, namely, Wasim Akram Malik (A-1), Amir Abbas Dev (A-2)under section 120B, 121, 121A, 122, 123, 302, 307, 323, 325, 436, 440 of IPC, Section 3, 4 & 5 of Explosive Substances Act and Section 16,18,20, 38 & 39 of Unlawful Activities (Prevention)Act and against Amir Ali Kamal (A-4),Junaid Akram Malik (A-5) and Shakir Hussain Sheikh (A-6)under section 120B, 121, 121A, 122, 123, 302, 307, 323, 325, 436, 440 of IPC, Section 3, 4 & 5 of Explosive Substances Act and Section 16,18,20 & 38 of Unlawful Activities (Prevention) Act on 13.03.2012.
- 16.4 On the direction of the Learned Special Judge NIA, PHC, New Delhi, the charge sheet against the Juvenile xxxxxxxx (A-3)under section 120B, 121, 121A, 122, 123, 302, 307, 323, 325, 436, 440 of IPC, Section 3, 4 & 5 of Explosive Substances Act and

Section 16,18,20, 38 & 39 of Unlawful Activities (Prevention) Act was filed on 15.03.2012 before the Learned Juvenile Justice Board -1, Kingsway Camp, New Delhi.

- Both the Learned Courts have taken cognizance of the offences. The Juvenile Justice Board, Kingsway Camp, New Delhi issued notice to the Juvenile xxxxxxxx under section 120B, 121, 121A, 122, 123, 302, 307, 323, 325, 436, 440 of IPC, Section 3, 4 & 5 of Explosive Substances Act and Section 16,18,20, 38 & 39 of Unlawful Activities (Prevention) Act. The matter is pending trialbefore the Learned Court of Special Judge NIA, PHC, New Delhi against accused Wasim Akram Malik (A-1) and before Learned Juvenile Justice Board-1, Kingsway Camp, New Delhi against Juvenilexxxxxx (A-3).
- 16.6 The absconding accused Amir Ali Kamal (A-4) died in a gun battle with the Security Forces at Dachhan, Kishtwar area on 06.08.2012. Similarly, another absconder ShakirHussain Sheikh (A-6) was also killed in a gun battle with the Security Forces atMarwah, Kishtwar (J&K) area on 20.12.2012. The Ld. Court has abated the proceedings against both the aforementioned accused person on the request of NIA on 15.10.2012 and 16.02.2013 respectively.
- 16.7 This supplementarycharge sheet is being filed in continuation of charge sheet filed on 13.03.2012 before the Learned Court of Special Judge NIA, PHC, New Delhi and on 15.03.2012 before the Learned Juvenile Justice Board-1, Kingsway Camp, New Delhi.

17. Facts disclosed during investigation:

17.1 Investigation has revealed that a photocopy of the hand written letter in English allegedly written by accused WasimAkram Malik (A-1) was recovered from the pocket of the deceased accused Amir Ali Kamal (A-4) by the Security Agencies after the gun battle in Kishtwar, J&K. The J&K police had seized the said letter, as well as, one pocket diary alongwith other items from the dead body of Amir Ali Kamal (A-4) vide recovery memo dated 06.08.2012. The certified photocopies of the said letter alongwith the photocopy of Amir's pocket diary were collected from the Kishtwar police on production memo.

The content of said letter is reproduced as under :-

Xxxxxx

XXXXXX

- 17.2 This seized letter clearly establishes the link between the accused Wasim Akram Malik (A-1) as well as deceased accused terrorist Amir Ali Kamal (A-4). It also establishes that accused Wasim Akram Malik (A-1) was perturbed with the decision of Amir Abbas Dev (A-2) to become an approver which could lead to disclosure of the whole conspiracy before the Court. Consequently, he wanted Amir Abbas Dev(A-2) to be either motivated or threatened by Amir Ali Kamal(A-4) from making any disclosure before the Court. It further discloses that Wasim Akram Malik was well aware of the terror activities of Amir Ali Kamal (A-4) and that he expected that some of his(Amir Ali Kamal -A-4) associateslodged in the Jail could coerce Amir Abbas Dev (A-2).
- 17.3 During the course of further investigation, the specimen handwriting / signature of the accused WasimAkram Malik (A-1), who is presently in judicial custody at Tihar Central Jail, Delhi, were taken with the due permission of the Court and were sent to the Central Forensic Science Laboratory (CFSL), Hyderabad for expert opinion. The expert opinion has established and confirmed that the questioned document i.e a photocopy of the hand written letter in English from Wasim Akram,which was recovered from the pocket of the deceased accused Amir Ali Kamal (A-4) by the Security Agencies after the gun battle in Kishtwar, J&K is written by accused Wasim Akram Malik (A-1).
- 17.4 During the course of investigation, one CPU installed at Cabin No.-3 of Global Cyber Internet Cafe, Kishtwar was seized. An e-mail from the e-mail ID xxxxxxxx was purportedly sent by the accused xxxxxxx (A-3) to various Indian television news channels from the aforesaid computer on 07/09/2011 at about 01:14 pm after the bomb blast, claiming the responsibility of the blast. Accused Wasim Akram Malik (A-1) had directed accused xxxxxx (A-3) through Amir Abbas Dev (A-2) to send the said email after seeing the news of bomb blast at Delhi High Court on 07.09.2011 on TV news channels. He had also provided detailed instructions as to how to create email ID xxxxxxxx During the investigation, the hard disk of aforesaid CPU was sent to CFSL various forensic laboratories including CBI New Delhi, C-DAC Thiruvananthapuram to recover the relevant data. However, despite all our efforts, none of the laboratories in India could retrieve the data from the said hard disk due to some technical reason. Accordingly, the said hard disk was sent to Federal Bureau of Investigation (FBI) of the United States of America (USA) through the office of Legal Attache, Embassy of the United States of America, New Delhi vide letter dated 27.12.2011 with a request to recover the data from the hard disk and analyse the same on the twelve parameters provided by NIA.

- 17.5 The CART (Computer Analysis Response Team) FBI USA has successfully retrieved the data from the said hard disk and submitted an analysis report dated 27/09/2012 in the form of a DVD.
- 17.6 The analysis revealed that CART FBI had book marked the requisitioned information relevant to the case in a separate section "book marked" created in the said DVD. The book marked section has further been divided in twelve sub sections with the headings as per the requisitions. The CART has informed that only one email account xxxxxxxxx was opened and used from 12:30 pm to 02:30 pm on 7 September, 2011 (sub section 1 of the bookmark). In the sub section 2 of the bookmark, all the activities pertaining to the email account xxxxxxxx have been given. As per the analysis, the email account xxxxxxxxxx was only used five times. The said email was created on 07/09/2011 at 1:04 pm and the emails to xxxxx with the CC to xxxxxx from this account were sent on 7/9/2011 at 1:14 pm. The said email account was used to log to Gmail account on 7/9/2011 at 1:38 pm and at 1:45 pm. The book mark 5 contains the history and %TEMP% internet files for all the users. In the spreadsheet of all internet activities (1).xlsx, the internet activities shown at Srl No.394 to 396 between the time (13:04:55 IST) on 07.09.2011, xxxxxxxx have been shown created. In another spread sheet related to recovered fire fox internet activity, there are entries at Srl No. 3384 and 3385 pertaining to the search of mail and address of Indian news channels at 1300 hours on 07.09.2011. In the book mark 12 under the heading other relevant facts pertaining to the case, the CART has provided recovered google searches. The analysis of the same revealed that it contains the clusters pertaining to the search of email address of the Indian TV news channels. The scrutiny of the other sections did not reveal any relevant data pertaining to the case. The above disclosed information by CART matches with the other evidence collected during investigation regarding the creation of the email account xxxxxx on 07.09.2011 by accused xxxxxxx (A-3) and sending the threatening email to the news channels Aajtak and NDTV claiming the responsibility of bomb blast as per the direction of accused Wasim Akram Malik (A-1). It further establishes that accused xxx searched the email addresses of Indian news channels on 07.09.2011 at 1300 hours in the xxxxxxx, Kishtwar.
- 17.7 During investigation, the Central Authority of the United States of America was requested vide letter dated 25.10.2011 issued under the provisions of Mutual Legal Assurance Treaty (MLAT) to provide the full details of inbox in respect of email ID xxxxxxxxxx. Some information in respectof this email ID was provided in the form of CD.The scrutiny of the CD revealed that aforesaid email ID was created on

07.09.2011 at 07:32:10(UTC) with IP address xxxx. The US Authorities have also provided the complete activities in the email ID xxxxxxxx including the contents of the claimed email sent on 07.09.2011 to xxxxx with CC to xxxxx from above said email ID. The report conclusively establishes that email claiming the responsibility for the blast was sent from the email xxxxxx .com using IP address xxxx which was traced to xxxxxx, Kishtwar, J&K. The contents of the claim e-mail is reproduced as under:-

"xxxxxxxxx....."

- 17.8 The investigation conducted earlier had revealed that accused WasimAkram Malik (A-1) was pursuing MBBS from Bangladesh and he had a laptop and a mobile phone device on which he browsed internet to access jihadi terrorism related literature and communicated with his associates to motivate them for undertaking the terrorist actions. Investigation had also revealed that he had anti-national disposition and he had nefarious designs to undertake terrorist attack with an intention to secede Kashmir from India. Accordingly, a request under the provision of Mutual Legal Agreement was sent to Bangladesh vide letter dated 25.1.2012 with a request to examine the relevant persons like the teaching staff of xxxxxxx College and Hospital, Sylhet, Bangladesh, classmate and friends of accused, office bearers of Islamic ChhatraSibir and also to verify whether there was any complaint / case registered against accused Wasim Akram Malik (A-1). Request was also made to get the CDR in respect of mobile No. xxxxxxxxx which he was using at Bangladesh during his stay at Bangladesh and the details of internet data surfed on this laptop / mobile. authority has also been requested to conduct searches to seize the mobile handset as well asthe 'laptop' used by him during his stay at Bangladesh and to collect the documents regarding his stay / study at Bangladesh. The response of the concerned authority of Bangladesh is expected shortly.
- 17.9 During the course of further investigation, attempts were made to identify the accused persons who had planted the bomb at the reception counter of Delhi High Court on 07.09.2011,on the direction of accused WasimAkram Malik (A-1) and others. Investigation has revealed that, one of the planters, who were introduced as Abu Bilal to the accused / approver Amir Abbas Dev (A-2) by Wasim Akram Malik (A-1) during the meeting at xxxxxxxxx, Kishtwar on 03.09.2011 is one terrorist GulamSarwar @ Firdos (A-7). Investigation further revealed that GulamSarwar was also the main accused and absconder in a car bomb blast incident in Udhampur, J&K on 02.05.2011. Case FIR No. 83/2011 under section 302, 307 RPC, Section 3 of

Explosive Substances Act and 16, 18 of ULA Act stands registered in PS Udhampur regarding this terrorist bomb blast targeted to attack a Senior Indian Army officer. Gulam Sarwar (A-7) was charge sheeted by the Udhampur Police alongwith his associate Abdul Majid. In this regard the relevant documents including copy of FIR, photograph of the main accused Gulam Sarwar, Chargesheet, other photographs, CDRs etc. were obtained from the Udhampur Police and the statement of the Investigating officer of that case was also recorded.

- 17.10 During the course of further investigation the attempts were made to find out the antecedents of Gulam Sarwar. Investigation conducted by the Udhampur Police in connection with the Udhampur car bomb blast incident as mentioned in the aforesaid para revealed that Gulam Sarwar committed the said car bomb blast with co-accused Abdul Majid, who was arrested by the Udhampur Police. The investigation conducted by the Udhampur Police revealed that Gulam Sarwar was a resident of Pakistan and he was introduced with Abdul Majid by a Lashkar-e-Taiba (herein after referred to as LeT) terrorist of Thanamandi area code name Osama r/o Pakistan sometime in July 2008. The said Osama directed Abdul Majid to arrange accommodation for GulamSarwar in Jammu. Accordingly Abdul Majid met GulamSarwar in Jammu in August 2008 and arranged rented accommodation in house of one xxxxxx r/o xxxxx, Jammu. Abdul Majid also prepared one identity card for accused Gulam Sarwar through a judicial clerk in Tehsil office, Rajouri, J&K. Abdul Majid also purchased TATA Sumo vehicle in October/November 2008 for Gulam Sarwar on the direction of Osama, a LeT Commander. The money for the purchase of Tata sumo was given by Osama. Gulam Sarwar also made therecce of Srinagar area in August 2008 along with Abdul Majid. Investigation further revealed that in November/December 2008 Gulam Sarwar changed his accommodation from xxxxx to xxxxxx. Investigation conducted by the Udhampur Police with Abdul Majid revealed that GulamSarwar was a Pakistani National and he had flown from Karachi to Dhaka where he was received by a conduit of LeT. Then Gulam Sarwar was made to cross over to Assam (India) through Indo-Bangladesh border for militant activities in India.
- 17.11 Investigation also brought out that accused Gulam Sarwar had concealed his actual parentage as well as residential address.Gulam Sarwar (A-7) had married a local Jammu based girl namely xxxxxxxx posing himself to be a resident of, xxxxxx, Jammu& Kashmir. GulamSarwar stayed with his wife in Jammu on a rented accommodation before absconding after the Udhampur car blast. Subsequently, when verification was made by the local police in connection with the Udhampur Blast

case about his native address, it was established that no such person by the name GulamSarwar S/o Barkat Ali ever resided in said village. The statements of xxxxxxxx w/o GulamSarwar (A-7) as well as the landlord of the houses where Gulam Sarwar used to stay on rent were also recorded during further course of investigation. However, the actual parentage of Gulam Sarwar could not be ascertained during the investigation conducted by the NIA.

- 17.12 As per the investigation conducted by the Udhampur Police, Gulam Sarwar is a resident of Pak-occupied Kashmir (PoK) and was a member of the banned terrorist organisationLashkar-e-Taiba (LeT).LeT commanders had tasked one Abdul Majid (accused in JC in Udhampur car blast case) to help Gulam Sarwar to settle down in Jammu and to help him in all manner so that he could undertake some violent actions in Jammu area. To give a cover to the LeT activities, Gulam Sarwar managed to get a rented accommodation at xxxxxxxx on his fake identity. He married a local girl to gain the faith of local populace. Gulam Sarwar also managed to get other documents through dubious means, establishing his identity, which includes J&K State Subject Certificate, Ration Card, Driving Licence, Identity card and a CBSE Education certificate.
- 17.13 During further investigation, the 'Photo Identification' of Gulam Sarwar (A-7) was conducted by clubbing the photograph of Gulam Sarwar with other photographs and the same were shown to Amir Abbas Dev (A-2) in the presence of independent witnesses. Amir Abbas Dev identified the photograph of Gulam Sarwar as that of the persons who was introduced to him as Abu Bilal on 03.09.2011 by Wasim Akram Malik (A-1) in Kishtwar. Investigation has further brought out that both Abu Bilal @ Gulam Sarwar (A-7) and Abu Saif-ullah had brought the suitcase bomb to Delhi and caused the terrorist blast at Delhi High Court on 07.09.2011.Ld Special Court of NIA,New Delhi has declared accused Abu Bilal @ Gulam Sarwar (A-7) as proclaimed offender.
- 17.14 During further investigation the second bomb planter i.e Abu Saifullahis being investigated.
- 17.15 During further investigation, the statement of a witness PW-X-16 (Protected witness) was recorded which elucidates upon the activities of Hizb-Ul-Mujahideenterrorists in Kishtwar region. PW-X-16 further corroborates the primary role of Wasim Akram Malik (A-1) in the conspiracy leading to the powerful bomb blast at Delhi High Court on 07.09.2011.

- 17.16 PW-X-16 further stated about the planting of bomb by the two foreign terrorists (Gulam Sarwar and Saifullah) of Lashkar-e-Taiba (LeT)outfit who had done the assigned tasks in a criminal conspiracy with other terrorists.
- 17.17 The two Pakistani terrorists who planted the bomb as per PW-X-16 are Abu Bilal and Saifullah (Bodyguard of Abu Bilal) who were both earlier associated with Lashkar-e-Taiba (LeT). PW-X-16 further stated that Bilal was earlier operating with his alias name Gulam Sarwar and he was an expert in IEDs (improvised explosive devices). Gulam Sarwar@ Abu Bilal had, earlier in 2011, done a major car blast in Udhampur district targeting a senior Army officer. PW-X-16 further stated that Saifullah was also from Pakistan and was very well trained in latest weaponry and field craft tactics. Saif-ullah had also done Advanced Commando courses in terrorist training centre Pakistan.
- 17.18 PW-X-16 has further stated that the original idea of Delhi High Court bomb blast was of Wasim (A-1), elder brother of Junaid Akram Malik (A-5). PW-X-16 further revealed that Wasim (A-1) was a fanatic person who wanted to teach India a lesson by attacking Delhi High Court as he perceived that people of Muslim community were being ill-treated in India. Wasim (A-1) also wanted to threaten Courts in view of the Afzal Guru's death sentence.
- Investigation has revealed that WasimAkram Malik had procured a SIM Card 17.19 (bearing mobile No xxxxxxxxxx) from West Bengal in someone else's name on 28.06.2011 and he used it during his trip to Delhi, when he conducted reconnaissance of the target viz. Delhi High Court. Further investigation in respect of the mobile number xxxxxxxxx, which was found in the possession of accused WasimAkram Malik (A-1) on 06.10.2011, was also conducted by collecting the Call Detail Records (CDR) and Customer Application Form (CAF) in respect of the said number. Investigation revealed that the said mobile number was issued by a shop M/s xxxxx in the name of one lady subscriber namely xxxxxxx R/o, xxxxx, West Bengal. However, the analysis of the CDR revealed that Wasim Akram Malik (A-1) used the said number to contact with his family members and friends .xxxxxxxx during investigation admitted that CAF contains her signature, photograph and copy of voter ID card. However, she could not remember whether or not she had ever visited M/s xxxxxx Enterprises for the purchase of aforesaid SIM. The statement of the Proprietor of M/s xxxxx Enterprises namely xxxxxxxx was also recorded in this regard. xxxxxxx admitted to have sold the said pre-activated mobile SIM card issued in the name of one xxxxxx to one Kashmiri

looking boy of the age group about 24 to 26 years on 28.06.2011 for an amount of Rs.150/-. The said boy,xxxxxxxxx disclosed, was in dire need of a mobile phone SIM card. The said number was activated in the name of xxxxxx on 26.06.2011; however she had no idea about this SIM Card. It clearly establishes that accused Wasim Akram Malik (A-1) intentionally took the mobile number in a fake name with an ulterior motive to use it while conducting reconnaissance of his target the Delhi High Court so as to mislead the Law enforcement agency.

- 17.20 During further investigation, statement of another witness PW-X-17 (Protected witness) was recorded. He stated about the radical and separatist outlook of Wasim (A-1) and his skewed and misconstrued ideas of Islamic Jihad. Infact, Wasim (A-1) was trying hard to radicalize PW-X-17 and recruit him in his group having anti national and secessionist agenda.
- 17.21 The sanction for prosecution of aforementioned accused under section 196 of the code of Criminal Procedure,1973 and section 45 (2) read with Sec 52 (2) of the Unlawful Activities (Prevention) Act 1967 as amended in 2008 and under Explosive Substances Act 1908 has been obtained from the competent authority and same isenclosed herewith.
- 17.22 It is, therefore, prayed that this Hon'ble court may please be pleased to take cognizance of the offences as mentioned above and issue process to the accused person to stand trial in accordance with law.
- 17.23 Further investigation is being conducted under the provision of section 173(8) Cr.P.C. against the accused Abu Saifullah (A-8).

18. Charge

Abu Bilal @ Gulam Sarwar@ Firdos@ Raju (A-7) S/o Barkat Alias reported of xxxxxxxx (J&K) ,permanent resident of Pakistan u/s 120B, 121, 121A, 122, 123, 302,307,323,325, 436 and 440 of IPC, Section 3, 4 & 5 of Explosive substances Act and Section 16, 18, 20 and 38 of Unlawful Activities (Prevention) Act.

- 19. Despatched on :
- 20. No. of enclosures : 05
- 21. List of enclosures : Annexure-A (List of witnesses)

Annexure-B(List of Documents)

Annexure-C (List of Material Objects)
Annexure-D (Sanction Order by MHA)

Annexure-E (Sanction Order by District Magistrate)

Signature of the Investigating Officer submitting the Charge Sheet

Jalaj Shrivastava Dy.Superintendent of Police NIA, New Delhi

Forwarded by

Superintendent of Police,
National Investigation Agency
New Delhi