

We've never been as confident in confirming a death sentence: HC

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The court, however, dismissed the Maharashtra government's petition against the acquittal of two Indians, Faheem Ansari and Sabauddin Ahmed, accused of aiding the commission of the crime.

The judgment came nine months after the Special court awarded death sentence on five counts to Qasab, the lone surviving terrorist of 26/11 attacks.

""Aapko saza-e-maut yeh adalat barkarar karti hai. Aap Supreme Court mein appeal dayar kar sakte hain (Your death sentence is upheld.

You can appeal before the Supreme Court,"" Justice Desai told a bearded Qasab, clad in a spotless white kurta and sporting a grin, through video conferencing.

""Agar aap ko wakil chahiye hoga to sarkar aapko madad karegi."" (If you want to file an appeal, the government will help you) said Justice Desai.

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The court held Qasab individually responsible for seven murders, while he committed more than 66 murders with Abu Ismail and was guilty of abetting them by conspiracy.

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An elated Yasmeen, wife of Faheem Ansari, outside the HC on Monday (R) Special prosecutor Ujjwal Nikam

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HC held that murders display extreme brutality, cruelty and were previously planned. Qasab killed innocent people including women, children, and even policemen with an AK-47 and explosives in an extremely brutal grotesque, diabolical, revolting or dastardly manner, so as to arouse the extreme indignation of the community.

The HC said that the magnitude of the attack indicates pre-planning and such was the terror created that people were scared to even depose against Qasab.

Perversity and depravity

Referring to the murder of Amarchand Solanki, the navigator of Kuber, the HC said that it was a cold blooded murder and it was Qasab who suggested that Solanki should be killed.

HC relied on the postmortem notes of Solanki and Qasab's confession on the same. HC upheld that it was Qasab who planted an RDX bomb in a taxi that exploded at Vile Parle.

The court relied on the evidence given by Khaliluddin and his son who were seriously injured at CST due to the firing and bomb blast. The court in its order recorded that Qasab, who was firing, was in a joyous mood.

Recording another incident of Qasab's perversity, on account of evidence given by Thomas Uledhar

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who was in Cama hospital, HC ruled that Qasab's actions at the hospital were indicative of his warped mental attitude. "He had no qualms about killing patients admitted in hospital," said the judges.

The court also took serious view of the statement made by Qasab to the magistrate who recorded his confession.

HC says that Qasab despite saying that he was sorry for what he had done, showed no signs of remorse, instead he wanted more Fidayeens to get inspired from his work.

Was well aware of his actions

The HC said Qasab was not compelled by LeT to fall in line with their ideology but willingly joined them.

Relying on his confessional statement the judges said, "It is impossible to say that he was misguided by LeT; that he did not have a mind of his own or that he was merely used by the handlers as a tool." The court said that Qasab was well aware of the consequences of his actions.

Age not a mitigating factor

HC ruled that the only mitigating circumstance in Qasab's case is his age, however, reiterating SC judgement the Bombay HC said that the brutality, perversity and cruelty exhibited by Qasab by committing multiple murders without provocation ...has no moral justification. "The conduct of Qasab shows that his mental age overrides his physical age," said the judges.

The HC ruled out any scope of rehabilitation and reform for Qasab. The court said that the lone mitigating circumstance, the age of Qasab must recede in the background. "Even after according maximum weightage to the age factor, we feel that there is no alternative but to confirm the death sentence.

This is, indeed, a rarest of rare cases involving uncommon and unprecedented crime for which sentence of life imprisonment is inadequate," the judges said.

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Farhana Shah on verdict

Speaking to the media after the judgment, Qasab's counsel Farhana Shah said she would inform the convicted terrorist about the verdict and that he still has the option to move the apex court.

Asked if Qasab was repentant about what he did, she said, ""He must be, but I have not yet met him (after the judgment)."" Shah said she did not spot the Pakistani terrorist smiling after the judgment was pronounced.

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