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Did Kasab assault jail guards?

Wednesday, September 29, 2010
By Philip Varghese

A day after the prosecution submitted CCTV footage in the Bombay High Court (HC) showing 26/11 convicted terrorist Ajmal Kasab, assaulting a jail guard, the defence alleged that the footage is a 'trick', only to prevent Kasab from meeting his lawyers.

The HC is currently hearing the confirmation of Kasab's death sentence.

Even though the defence claimed that submitting a CD was to oppose his plea for a closed-door interview with his lawyers, state counsel Ujjwal Nikam said that the incident took place on September 1 and was captured in the cameras installed in his cell.

Last week, Kasab, through his lawyers, advocates Amin Solkar and Farhana Shah had moved an application to court for an interview with his lawyers, which should not be within hearing distance of the jail staff.

While submitting the CD to the HC bench, Nikam said, "Kasab was doing illegal act because of which the jail staff had to interfere. Suddenly, he got agitated and assaulted the jail guard, which was captured by the CCTV. He can pose a great danger to his own life as well as to the guards."



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Nikam also submitted an affidavit of the Arthur Road Jail superintendent, Rajendra Dhamane, which states that Kasab was a trained commando and mover swiftly in the cell. “The presence of jail officers near him during interview with lawyers is essential to control his aggressive movements. The rule 11 of Maharashtra Prisons Rules, 1962, says that every interview with a convicted prisoner shall take place in the presence and hearing of a jail staff. The rule also states that during such an interview, a prisoner under sentence of death and his friends or legal advisors shall not be allowed to approach each other,” Dhamane said in his affidavit.

While submitting the affidavit, Nikam told the court, “I oppose the request made by Kasab for an interview with his lawyers which should not be within hearing distance of the jail staff.”

However, while arguing on this point, Advocate Amin Solkar, representing Kasab said that communication between the lawyer and his client was a ‘privileged’. “Kasab was uncomfortable answering questions in presence of the jail staff or any police officials. We should be allowed to talk to him in full privacy.”

Replying to this, Nikam said, “There is no question of exchange of instruction at this point as the evidence has already concluded.”

After hearing both the sides, the bench comprising Justices Ranjana Desai and R.V. More said that it will pass an order tomorrow on whether Kasab’s plea for interview with his counsels within the presence of the security staff but not within earshot could be granted.

Speaking to the ADC, advocate Farhana Shah said, “I haven’t seen the CD. I don’t know anything about this assault by Kasab. The prosecution said that the incident happened on September 1. But the CD was produced after so many days. Since September 1, there have been hearings in this case in HC and even I have met Kasab in the Arthur Road jail. No one including the superintendent informed us that such an incident took place. The incident is mentioned in the affidavit filed by the jail superintendent. However, the affidavit was given to us only on Monday evening. This is a clear way of trying to stop us from meeting Kasab in privacy.”

The HC would be hearing the confirmation of death sentence to Kasab from October 18 via video conferencing, as the prosecution has apprehensions that his physical presence in court could pose a serious security threat.

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