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18th victim? Baig leaves a Pune court after the verdict, Apr 18

OPINION: TERROR PROBES

The Terror After The Event

The Maharashtra ATS's investigations into terror cases has been dubious at best. Himayat Baig's death sentence is the latest travesty.

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I was quite settled in my career when a court in Pune sentenced Mirza Himayat Baig, a terror suspect, to death in April this year. I was working with a TV station, drawing a decent salary and covering, among other beats, internal security. A source in the Maharashtra ATS—the same organisation that prosecuted Baig for the Pune German Bakery blast—had told me soon after the arrest that Baig was innocent but was being fixed by some senior ATS officers. The latter apparently felt that their prospects for future lucrative postings would be dented if the case remained unsolved. The blast happened in February 2010, Baig was arrested in September.

The usual suspects (always members of SIMI or some other radical Muslim outfit) being falsely implicated in terror cases by our investigating agencies is not a new phenomenon. We have only to check the trajectory of the series of terror cases that have ended in acquittals over the past 10 years. Mostly, after such acquittals there is the usual criticism from civil society and journalists, but that's par for the course for our investigation agencies. After a few critical op-eds and commentaries, all is forgotten.

For over a year, I researched several terror investigations, including the 7/11 train blasts (2006) and collected material evidence—internal documents of the agencies themselves—that showed how they were peddling different versions of the same, integral terror plot before different courts of law. It was apparent that, for our agencies, the truth had multiple versions for multiple purposes. There was one version for internal consumption of the agencies, another for the courts. Within the courts, there was one version for a court in UP, another for a court in Gujarat and yet another for a court in Mumbai. Interrogation reports of terror suspects were tailored in different and often contradictory ways by different agencies to suit their respective cases. I was intending to use this material to write a book. The idea of using it to intervene in a judicial process never crossed my mind then.

After Baig's sentence was pronounced, I got in touch with my ATS source again and asked how Baig, if he wasn't involved in the blasts, had got the death sentence? He laughed and replied: "That's the beauty of our criminal justice system. All you need to show is the recovery of some explosives and arms and a few tutored witnesses."



Baig was a poor Muslim who with great difficulty had completed his graduation and done a teacher's course. In 2006, misfortune struck. Some of his acquaintances were arrested in a controversial Aurangabad Arms Haul case in May that year and he got dragged in too. (This is one of the most mysterious



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of terror cases. It took five years for the ATS to frame charges against the arrested accused. The last one heard, only two police witnesses had been examined).

Baig spent the next five years (till he was arrested) trying to earn an honest living. He did a diploma qualifying him to become a teacher in this period, besides various odd jobs including teaching at a private coaching class. On April 17, when the judge in Pune pronounced the death verdict, Baig broke down. "In the German Bakery blast, 17 innocent people were killed. I am the 18th victim of the blast," Baig told the court. Barring the *Indian Express*, no other mainstream English newspaper reported at that time on Baig's protestations in the court.

Six months before Baig was handed the death sentence, a terror suspect named Qateel Siddiqui, 28, was killed in mysterious circumstances in the high-security 'anda cell' of the Pune Yerawada jail. My source told me that Qateel's death and Himayat's innocence were linked. He gave me two interrogation reports of Qateel prepared by an ATS inspector. Qateel was arrested about a year after Himayat's arrest. But there was a catch. He wasn't arrested by the Maharashtra ATS but by the Delhi Special Cell. My source asked me to access Qateel's interrogations reports by the Delhi Police and other agencies and compare it with the ones prepared by the Maharashtra ATS.

I spent the next few weeks procuring the material on Qateel available with other agencies. Finally, I had detailed interrogation reports prepared by not just the Delhi Special Cell but also the Bangalore police. As per these reports, Qateel was not only involved in the Bangalore Chinnaswamy Stadium blasts of 2010 but also the Pune German Bakery blast. More importantly, these reports completely contradicted the ATS theory of Baig being involved in the blast.

As per both these IRs, it was Qateel and Ahmed Siddibapa alias Yasin Bhatkal who had come together to plant a bomb at two different places in Pune. While Qateel was supposed to plant the bomb at the Dagduseeth Halwai Ganesh temple, Yasin took it upon himself to plant the bomb at the German Bakery. Also, as per these IRs, Yasin and Qateel were together until 2:30 PM on February 13 in a room they had rented in Katraj locality of Pune. Qateel was given the bomb by Yasin on the afternoon of February 13. Both bombs were supposed to go off around the same time, that is, between 6:45 pm and 7 pm.

But the Maharashtra ATS theory (that had already been presented in the form of a chargesheet against Baig by the time Qateel was arrested) was that Yasin was with Himayat Baig the entire day on the 13th and that the two had gone to plant the bomb at the Pune German Bakery. On the other hand, the Delhi and Bangalore Police reports had no reference to Himayat Baig whatsoever.

To smooth out these blatant contradictions, the ATS sent an officer named Dinesh Kadam to interrogate Qateel while he was in the custody of the Delhi police. In his report, Kadam made one crucial change from those by the Delhi and Bangalore Police. He twisted those portions of Qateel's confession in which he spoke about his continued presence with Yasin on February 13. Now, according to Kadam, Qateel had told him that Yasin gave him the bomb on February 11. This was done to justify Yasin Bhatkal's presence with Baig on the 13th. So February 13 was pre-dated to February 11 by Inspector Kadam, as the ATS had already spun a story around Baig and Yasin for February 13 and the same theory had already been presented before a Pune court in the form of a chargesheet.

On all other counts, Kadam accepted and confirmed Qateel's revelations made before the Delhi and Bangalore police. Kadam also accepted the claim that Qateel eventually could not plant the bomb at the Ganesh temple and instead dismantled it and threw it away.

Now, after interrogating Qateel, Kadam went back to Pune and filed a separate case against Qateel in a Pune court and charged him with attempting to bomb the Ganesh temple. The Maharashtra ATS took police custody of Qateel in this new case on 2.05.2012 and took him to Maharashtra. On 28.05.2012, a Pune court sent him to judicial custody and Qateel was lodged in a high security cell at Yerawada Jail in Pune.

On 8.06.2012, Qateel was mysteriously found murdered in the high security cell—the same day he was supposed to be brought back to the capital to be produced before a Delhi court in connection with the case registered against him by the Delhi Special Cell. The Maharashtra police claimed that two other inmates had killed Qateel after an angry exchange of words. According to them, he was strangled with a Bermuda pant cord. But the same couldn't be recovered because it had apparently been burnt by the accused.

The man who could have testified to Baig's innocence was now gone. Meanwhile, the trial against Baig continued. Qateel's story, as recorded by the Delhi and Bangalore police, was never brought before the Pune court trying Baig. On April 18, 2013, the court sentenced Baig to capital punishment primarily on the basis of an eye-witness account of an auto driver who claimed he had ferried both Baig and Yasin Bhatkal on the day of the blast and had dropped them close to the blast site.

When the judge handed him the death sentence, Baig started crying. As per the *Indian Express* he told the judge, "I come from a poor family. I wanted to do something for my community, which is backward in every way. I had come to Pune on January 31, 2010, for a rally seeking reservations for Muslims. I was not on the run, as the ATS says."

These words kept ringing in my mind. I proposed the story to the network I was working with. But they didn't show any interest. The handing of a death sentence to a poor, innocent Muslim is not much of a story for the mainstream media. This, in many, ways was also a turning point for me. I quit the channel and with a capital of a few lakhs founded a portal dedicated to investigative journalism. Anuja Chauhan, who's spent many years in the advertising world and is now a well-known author, gave the portal its name, *Gulail* (slingshot), the weapon of the dispossessed.



So Feb 13 was predated to Feb 11 by Inspector Kadam as the ATS had already spun a story around Baig and Yasin Bhatkal for Feb 13, the same which was made a chargesheet before Pune court.

Another late realisation has been that mere reporting is not going to change much. In today's disaggregated media and social networking sites, for every one fact that gets reported there are hundreds, if not thousands, of blatant lies that go viral, blunting and distorting the truth. The fight for justice and truth must thus be fought primarily in the courts of law. To this end, on May 17, a letter petition was filed with the Bombay High Court annexing dozens of original interrogation reports of terror suspects sourced from over half a dozen anti-terror agencies.

Besides laying out a case for how the Maharashtra ATS conspired to destroy the evidence of Himayat Baig's innocence, around 10 interrogation reports of another terror suspect, Sadiq Shaikh, recorded by several anti-terror agencies, was also put before the court. These reports show that while in the internal records of all other agencies in the country (including Mumbai Crime Branch) Shaikh was responsible for the 7/11 train blasts, the Maharashtra ATS tailored those parts of Sadiq's revelations that pertained to the narration of the 7/11 conspiracy.

There is a dangerous modus operandi in the ATS's methods that repeats itself in every terror probe done by the agency—and the 'usual suspects' mostly bear the brunt of it. If it was alleged SIMI members being implicated in the 7/11 train blasts, in the Malegaon 2006 blasts it was the followers of Ahle Hadith and through them, again, the SIMI, who were held responsible.

Before filing the petition, I decided to meet the 13 train blasts accused who have been in jail for the past seven years. All of them are young Muslims. And almost all of them are devout. The fact that they wore skull caps, kept a long beard, offered namaaz five times a day and followed other religious precepts in their daily lives were seen by the ATS as a sure sign of extremism. In police custody, the ATS officers castigated them for printing religious books, for propagating their religion and for wearing religious marks on their person.

Two months after the 7/11 blasts, when four synchronised bombs went off inside a mosque at Malegaon—all those killed were Muslims—the Maharashtra ATS had again arrested nine Muslim youth who were said to be followers of either the Ahle Hadith or SIMI. Two of the accused were kept common between the 7/11 and Malegaon cases and were shown as the suppliers of the explosives for both sets of blasts. And like in the 7/11 probe, the ATS also managed to extract confessions from these Malegaon Muslims. Indeed, in Malegaon they went a step further. They even had an approver who told the court that he was not only willing to implicate himself but also his co-accused. Under pressure from Muslim groups, the Maharashtra government finally transferred the Malegaon investigation to the CBI. But the 7/11 case continues to be with the ATS.

In the Malegaon case, the NIA filed a chargesheet last week (the probe was transferred from the CBI to the NIA) where it has named a bunch of RSS members as accused. But bizarrely, even then the NIA has not asked the court for the discharge of the original set of accused. Nor has it addressed the role of the Maharashtra ATS that had not only arrested innocent Muslims but had also shown recoveries of explosives, extracted confessions, found eye-witnesses etc.

These are not mere issues of legalities. When law enforcement agencies show absolute contempt for law, justice and truth, when innocent members of a community are falsely implicated in case after case and when the system turns a blind eye and fails to take correctives, it's not just the idea of justice but the very idea of India that is at risk.

My petition before the Bombay High Court has asked that an independent commission of inquiry be ordered into the conduct of the ATS and direct punitive action be taken against the police officers found responsible. Part of the decision lies with the court, the rest with the people of India.

(The author is the founder of www.gulail.com)

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