

M.C.O.C. SPECIAL CASE NO. OF 21/06

DATE: 13TH OCTOBER, 2010

EXT.No.635

DEPOSITION OF WITNESS NO.50 FOR THE PROSECUTION

I do hereby on solemn affirmation state that:

My Name : Shrikrishna Shivaji Pawale
Age : 42 years
Occupation : Business
Res. Address : 4/28, Rijigonji Chawl, T. J. Road, Sewree,
Mumbai-15.

EXAMINATION-IN-CHIEF BY SPP RAJA THAKARE FOR THE STATE.

1. On 22/10/06 I was called in the Kalachowki office of the ATS at about 11.30 or 11.45 a.m. Police officers, a person like me and an accused were there. When I went in the office, the officer told me that the accused is going to say something about the bomb blasts of 11/07/06 and a panchanama is to be prepared. The accused who was present there, started saying in Hindi that he is ready to show the places where he had reached his companions and where he had kept a Maruti car. Then the police asked me and the other panch to sign

on the writing that they did. After reading it, we signed on it. I remember the name of the accused as Naveed. The police officer told me his name. I will try to identify him. (Witness is asked whether he is present in the court and he answers in the affirmative. He points to the A/12 sitting in the dock, who is made to stand up and tell his name, which he states as Naveed Hussain Khan). He is the same person. I will be able to identify the writing and my signature. The memorandum of the statement now shown to me is the same, it bears my signatures at two places at sr. no.2, signatures of the other panch at sr. no.1 and of the police officer by the side. Its contents now read by me are correct. (It is marked as **Ext.636**). This was over at about 12.30 to 1.00 p.m.

2. Thereafter along with the police officers, the other panch, the accused and some police staff members, I started from the ATS office to the places that the accused was going to show. The police officers asked us to inspect the vehicle to check whether there was any suspicious article. We checked it but did not find any suspicious article. One staff member of the police had some stationery articles in a bag, like papers, tape, small plastic bags, etc. Police also told the

accused to inspect the vehicle. He declined to do so. Then we all sat in the vehicle and it was taken to the places as per the directions of the accused. First we went to Shivaji Nagar in Govandi. Accused asked the police to halt the vehicle and said that he had reached some companions there. There was a tailor's shop at the spot. It was closed at that time. Police wrote the panchanama there. A rough map was prepared about the location of the tailor's shop and its surroundings and our signatures were taken. I will be able to identify the map and my signature. (Witness is shown the map, which is the first annexe to the panchnama). The map bears my signature at sr. no.2, signature of the other panch at sr. no.1, of the police officer by the side and of the accused. Its contents are correct. (It is marked as **Ext.637**).

3. Then we all sat in the vehicle and the accused asked the police to take the vehicle towards Bandra. When we went to the Perry Cross lane off Carter Road in Bandra, the accused asked the police to halt the vehicle. We all got down and went on foot to a three storeyed structure. The accused showed a room, which was closed. Police wrote the panchnama further.

Q.-Why was that room shown?

A.-The accused stated that some companions had stayed there.

Police again prepared a rough map and took our signatures. I will be able to identify the map and my signature. (Witness is shown the map which is the second annexe to the panchanama). The map bears my signature at sr. no.2, signature of the other panch at sr. no.1, of the police officer by the side and of the accused. Its contents are correct. (It is marked as **Ext.638**).

4. We returned back to the vehicle and the accused told the police to take the vehicle to Andheri. In Andheri he directed the police to Millat Nagar. He showed the spot where he had kept the vehicle. There was a Maruti car there. It was white coloured. Millat Nagar was a Muslim area. The car was standing in front of a building by name Al Mizab. The car was locked. The accused said that the key of that car is in a building nearby. He led us to that building and to a room on the fourth floor. A police officer knocked on the door. A person opened the door. The accused told him that he had come with the police and asked him to give the keys of the car. The name of that person was probably Khot. He gave the keys of the car to the accused. Then we

returned back to the car. The car was opened by the keys. Police inspected the bonnet and boot, opened all four doors. The number of the car was 9568. Police inspected the car by torch. They saw some black spots on the back side of the driver seat. The black spots were wiped by three cotton swabs, out of the cotton that was with the police in the stationery articles. They put the cotton swabs in separate plastic bags. There were similar black spots in the boot. They wiped the black spots by three cotton swabs and put them in separate plastic bags. They put all the plastic bags in separate khaki covers. The covers were pasted close and they took our signatures on labels that were pasted on the khaki covers. Papers of the car were found in the glove compartment. They were put in a plastic bag, which was put in a khaki cover and label containing our signatures was pasted on that cover. Police were continuing writing the panchanama. Rough maps of the spot were prepared. I will be able to identify the maps and my signatures. (Witness is shown the maps, which are the third and fourth annexes to the panchnama). The maps bear my signatures at sr. no.2, signatures of the other panch at sr. no.1, of the police officer by the side and of the accused. Their contents are

correct. (They are marked as **Exts.639 and 640**).

5. Police seized the car and took the keys. I do not remember the name of the owner of the car that was on the papers. I will be able to identify my signatures on the labels on the covers in which the cotton swabs and the papers of the car were put. (SPP requests for opening the envelopes and covers at sr. no.16 to 19 of list Ext.16F. They are given to the learned advocates of the accused for inspection. There are six sealed khaki envelopes with white labels containing description of CR number, name of accused, etc., sealed by lac seal of the ATS and of the FSL and white thread below the seals crisscross. There are two sealed khaki envelopes with white labels containing the description as above and sealed by lac seal of the ATS. There is one khaki packet containing the description as above and sealed by lac seal of the ATS. Witness is shown all the nine khaki envelopes and packets). The labels on all the envelopes and the packet bear my signatures at sr. no. 2, signatures of the other panch at sr. no.1 and signatures of the police officer by the side. The thread and a lac seal were put on the envelopes and the packet at the spot.
6. (Out of the first six sealed envelopes having labels containing

the description of the contents, three are described as cotton swabs from the back of the driver seat and three from the dash board in the boot (dicky), bearing numbers M-497/06 (Ex-1 to 6). They are opened and found to contain plastic bags with small white labels containing the numbers M-497/06(Ex-1 to 6) and a cotton swab inside the bag in each envelope). The cotton swabs and the plastic bags are the same. (The cotton swab in the plastic bag containing the number M-497/06 (Ex-1) is marked as **Art-265**, the plastic bag is marked as **Art-265A** and the khaki envelope with label and seals is marked as **Art-265B**. The cotton swab in the plastic bag containing the number M-497/06 (Ex-2) is marked as **Art-266**, the plastic bag is marked as **Art-266A** and the khaki envelope with label and seals is marked as **Art-266B**. The cotton swab in the plastic bag containing the number M-497/06 (Ex-3) is marked as **Art-267**, the plastic bag is marked as **Art-267A** and the khaki envelope with label and seals is marked as **Art-267B**. The cotton swab in the plastic bag containing the number M-497/06 (Ex-4) is marked as **Art-268**, the plastic bag is marked as **Art-268A** and the khaki envelope with label and seals is marked as **Art-268B**. The cotton swab in the plastic bag containing the number M-497/06

(Ex-5) is marked as **Art-269**, the plastic bag is marked as **Art-269A** and the khaki envelope with label and seals is marked as **Art-269B**.

The cotton swab in the plastic bag containing the number M-497/06

(Ex-6) is marked as **Art-270**, the plastic bag is marked as **Art-270A** and the khaki envelope with label and seals is marked as **Art-270B**).

7. (The envelope having label describing the contents as key of car no. MH-01-V-9568, is unsealed. It is opened and found to contain a key bearing the name 'Maruti' to which a blue piece of wire is tied). The key now shown to me is the same. (It is marked as **Art-271** and the envelope with the label is marked as **Art-271A**).

8. (The envelope having label describing the contents as documents of car no. MH-01-V-9568 is sealed. It is opened and found to contain certificate of registration of Maruti-800 car No. MH-01-V-9568 in the name of Gulamraze M. Badami, zerox copy of certificate of insurance issued by National Insurance Company valid from the period from 28/11/05 to 27/11/06, PUC certificate issued on 09/06/06 and bill of M/s Sai Services dated 09/06/06). These are the documents that were seized from the glove compartment of the car. (They are marked as **Arts-272 to 275** respectively, the outer

envelope is marked as **Art-275A**).

9. (The envelope having label describing the contents as three audio cassettes seized from the front dash board of car no. MH-01-V-9568 is sealed. It is opened and found to contain one empty box of audio cassette and two cassettes in boxes). The cassettes now shown to me are the same. (They are marked as **Arts-276 (1to3)** and the envelope with the label is marked as **Art-276A**).
10. (Learned SPP submits that the car is parked in the compound of the office of the ATS at Kalachowki). I will be able to identify the car if it is shown to me. (Learned adv Wahab Khan submits that the car be brought to the court. Learned SPP submits that he will bring the car to the court tomorrow). Thereafter, the panchanama was completed and our signatures were taken. The panchanama now shown to me is the same, it bears my signatures at sr. no.2, signatures of other panch at sr. no.1, signatures of the officer by the side at five places and signature of the accused on the last page for having received copy. Its contents now read by me are correct. (It is marked as **Ext.641**). All this was over upto 7.30 or 7.45 p.m. (Ld SPP submits that the chief-examination be kept open.

Hence, deferred at 2.00 p.m. today to 14/10/10).

Date:- 13/10/10

**(Y.D. SHINDE)
SPECIAL JUDGE**

Date : 14/10/10

(Ld SPP Chimalkar submits that the car is brought to court and it is in a tempo that is parked in the compound of the court. Ld advs Shetty and Wahab Khan submit that they will go with the Id SPP, the witness and API Mohite of ATS and inspect the car. Ld SPP consents to this and all of them leave the court hall at 11.50 a.m. All return back at 12.00 a.m.).

Resumed on SA

11. The car that I saw below in the court compound is the same car that was seized. (It is marked as **Art-277**). (Ld SPP submits that photographs of the car were taken by police constable Vishal Barge of the ATS yesterday at the spot where it was in the compound of the ATS office by his mobile and printouts were taken from the computer and printer at the ATS office. He prays for permission to show the photographs to the witness. Permission granted). The photographs now shown to me are of that car. (They are marked as **Arts-278(1to3)** subject to objection by the learned advocates for the accused).

Cross-examination by Adv Wahab Khan for A/2, 7, 10 & 13

12. I saw the car just now in the court compound. It is true that it does not have number plate. It is true that the rear glass on which the CR number and muddemal number were written as per Art-278(3) is not in place. The car is brought in a tempo. It is true that on looking at the photographs Arts-278(1&2), I say that nothing is written on the bonnet of the car. It is not true that now the CR number is written on the bonnet. I did not climb the tempo to see the car.

(Witness is directed to step down from the witness box and go below and see the car).

Resumed on SA

13. It is true that CR number and muddemal number are written on the bonnet of the car by yellow paint. I cannot say when the numbers were written in between taking the photographs and bringing the car here. It is true that the numbers are not seen in the photographs. I do not know how to drive a car. I did not sit in the car that was seized from the Millat Nagar. No one sat in the driver seat in front of me. The car was not pushed and taken outside. It was not towed in my presence. No police officer started the car by the key or asked the person by name Khot to sit on the driver seat or to start it. It is true that I cannot say whether the car was in working condition when we saw it.

14. It is true that the three places which I say were showed by the accused at Shivaji Nagar in Govandi, Lucky Villa on Carter road and Al Mizab at Andheri (W) are public places. There are houses and shops around these places. It is true that police inquired with shopkeepers and people in the areas at these places. No one out of

them identified the accused. Police did not show the accused to those persons and did not ask them whether they know him. Police did not seize anything at these three places except the car at Al Hateem building. I did not see any case papers with the police persons. No policeman said at Shivaji Nagar and Lucky Villa that they had already visited these places in connection with the same case. They did not write anything while we were traveling. They were not taking rough notes about the spots *en route*.

15. Other than on the maps, my signature was not taken on any paper at Shivaji Nagar, Lucky Villa and Al Mizab building. I do not know whether policemen signed on any paper except the maps. They did not show me any documents saying that they have signed it. I can read and write Marathi and Hindi. I do not remember whether the panchanama was being dictated by an officer or it was being written directly by him. I do not know who wrote it. Officer Khanvilkar signed on the panchanama. Police did not take photographs of any spot.

16. I did not see the two maps prepared at Al Mizab and Al Hateem carefully before I signed them, to see whether they were correct. I did not see the maps prepared at Shivaji Nagar and Lucky

Villa carefully before I signed them, to see whether they were correct. I will not be able to give answers to questions properly by looking at the maps and from my memory. I cannot give perfect answers. (Witness is shown the map Ext-639). I cannot say whether the map is properly prepared.

17. The Al Mizab building was of four floors. I cannot say whether it had a compound. I cannot say whether Gokaj Shopping Center was on the eastern side of Al Mizab building. It was not a building. I do not remember whether the compound wall of both was common. I cannot say whether the line of the Gokaj Shopping Center on the side of the Al Mizab building shown in the map, is the compound wall or the edge of the building. There are many buildings in front of Gokaj Shopping Center. Al Mizab building touches the road. I cannot say whether in between the road and Al Mizab building there is a separate building by name Al Hira. I cannot say whether the Al Hateem building is visible from in front of Gokaj Shopping Center. As per the map Ext.640, there is no building in between Gokaj market and Al Hateem building. I do not go inside the compound of Gokaj Shopping Center. The police vehicle was not taken inside the

compound of that Shopping Center. I do not remember whether any police officer went to that Shopping Center. I do not remember whether we had halted at the entrance of Gokaj Shopping Center. I cannot say towards which direction one is required to go from the entrance of the Shopping Center to Al Hateem building. I cannot say so even on going through the map Ext.639.

18. We went to the Al Hateem building. I cannot say to which direction that building faces. I cannot say whether there are buildings between the Shopping Center and Al Hateem building. I did not see whether the name of Al Hateem building was written on the gate of that building or on the building. It was on the notice board. I do not know whether there was a watchman to that building. I do not remember whether there was visitors book at the gate. I do not remember whether the watchman had halted any one of us. The police vehicle was halted outside. I cannot say whether it was exactly outside the gate. The police vehicle was at Gokaj Shopping Center, when we went to Al Hateem building on foot. I cannot say in which direction we walked.

19. I did not see the table of watchman at Al Hateem

building. I cannot tell the colour of the building. I cannot say whether we entered from the front or back side of the building. I do not remember whether the ground floor was parking, commercial place or residential place, whether there was underground basement parking, whether police took photographs. I cannot say whether the Maruti car was the only car there or there were eight-ten more cars. I cannot say whether the car was dirty or clean. Police did not take fingerprints. I do not remember whether bomb squad personnel were called there. I do not remember whether police told me the kilometer reading. There was a tape in the car. Police did not remove the tape. It is true that the car brought to the court does not have tape. I cannot say whether there was AC system in the car. I do not remember whether the secretary and chairman of that building were called.

20. I do not know whether family of the person by name Khot was in the flat. I do not remember whether his flat was searched, whether police entered his flat, whether other residents of the building had come below on seeing us, whether Khot's signature was taken anywhere. I did not return back in the ATS office after leaving the Al Hateem building. I cannot say whether any person from

the chemical analyzer's officer was brought there. The Maruti car was not removed in my presence. I do not remember whether any document was given to Khot. I cannot tell his age. I do not remember whether he was healthy or slim. I cannot tell about his complexion, whether he was bald or had hairs. His flat was on the fourth floor. I do not remember who opened the door of the car, who entered it first. I cannot tell for how much time the car was being inspected. I cannot say at what distance I was standing when it was being inspected. I do not remember whether police made any inquiry with Khot. He was not asked to search us. I do not remember whether police gave their searches to him. Police had opened the boot of the car in my presence. Police told me that they have found some spots. I do not remember whether photographs of the spots were taken by camera or mobile. The writing of the panchanama was going on in the Al Hateem building, but I cannot tell at what time it started. I signed at seven places. Now I say that I did not count, therefore, I cannot tell at how many places I have signed. I signed at seven places on the panchanama at Al Hateem building, other than the maps. I now again say that I signed at seven places total on the panchanama. I now

again say that I did not make even a single signature near the Al Hateem building. I say that I put all seven signatures near the Al Mizab building other than the maps. My signature on the last page of Ext.641 was made at Al Mizab building. My signatures in the margins of Ext.641 were made at Al Mizab building.

21. In the ATS office, police did not tell the accused to sign on the memorandum of his statement. It is not true that accused did not take us anywhere and police did not seize anything, that police did not take the keys, did not take the cotton swabs from the spots in the car, did not seize the car. I signed on all labels near the Al Mizab building. Sealing was done near the Al Mizab building. It is not true that no sealing was done in my presence. It is true that I put my signatures on the panchanama and on all the labels in the ATS office.

Cross-examination by Adv P. L. Shetty for A/3, 8, 9, 11 and 12

22. Kalachowki Police Station is ten minutes walking distance from my house. My house is in the jurisdiction of that police station. I was called in the office of the ATS, which is in the compound of that police station.

(Adjourned for recess)

Date:- 14/10/10

**(Y.D. SHINDE)
SPECIAL JUDGE**

Resumed on SA

23. It is true that at Shivaji Nagar, Bandra and near Al Mizab building, I was just standing near the police vehicle and I did not go anywhere. It is not true that police also stood near the vehicle like me. Police went to the nearby area at Shivaji Nagar. I cannot tell their names and the names of the policemen who were near the vehicle. The other panch used to go with the police. From the highway we turned right at Ghatkopar for going to Shivaji Nagar. I do not know the name of that road. I do not remember whether for going to the spot we turned right or left after going some distance. I cannot tell the distance of that turn from the highway. I cannot tell how many turns we took for going to the spot from the highway. We required about forty-five minutes for going to Kokane Masjid from Eastern Express Highway. I do not remember whether after taking the right turn at Ghatkopar one has to go over a bridge over a nala, which is about five hundred meters from the right turn. I cannot tell the name

of any building, institution or identification mark from the right turn of the Eastern Express Highway upto Kokane Masjid. I cannot tell how many floors the Kokane Masjid has. I do not remember the name of the lane in front of the Kokane Masjid or its number. I do not remember the names of the building and shops in front and by the side of the Kokane Masjid.

24. The other panch was in the office of the ATS when I reached there. The accused was also present when I reached there. I do not know how much time before the accused was brought there before I reached there. I was called from the road in front of Kalachowki Police Station. There were many persons on the road at that time. Police were asking some other persons before they asked me. Those persons were not willing to become witness. When they asked me, I expressed my willingness and went with them. They did not tell me how much time would be required for the panchanama. I am a signboard painter. I did not have any work on that day. I was going for purchasing colour. I could not purchase colour on that day. I was going to the hardware shop 'Azad' that is slightly ahead of the police station at the naka. I now say that the shop Azad is at Sewree

and I do not remember the name of the shop near the Kalachowki Police station. That shop is in the Yashwante Square and office of the Communist Party of India is by the side. Before that day and upto 2007 I used to purchase colouring material from that shop frequently, but I do not remember the name of the shop.

25. When I entered the ATS office, police told me the details of the case and told me that the accused who is present there is making a statement voluntarily and a panchanama is required to be prepared and I should help them as a panch witness. Police told me the name of the accused as Naved. I do not remember whether this name was written in the entire panchanama. I did not ask the accused anything till the completion of the panchanama. I do not remember whether the other panch also did not have any talk with the accused. After the police told me to act as panch witness, I did not ask them anything. It is true that till today I do not have knowledge as to since when the accused was arrested and for how long he was in the police custody.

26. I do not know whether before that day, the members of the ATS team had at anytime visited the places where we went. Even

when I signed at the end I did not ask the police and they did not tell me about it. It is not true that I came to know about the maps when the police came to take my signatures. They were preparing the maps by keeping the papers on the bonnet of the vehicle. At that time I did not ask the police anything about the maps. It is not true that police did not tell me anything when they came to take my signatures. They told me that the maps are of the spots. I do not remember whether they told me anything else.

27. I do not remember whether there was office of the society of the building Al Hateem there. I do not remember how many cars were parked in the compound of that building. There were other cars. I do not remember whether there were numbers of allotment of parking spaces. I do not remember the number of flats on the fourth floor. Khot was with us for about forty-five minutes. I did not have any talk with him during this period. I did not pay attention whether the other panch had any talk with him. I do not remember whether police inquired with him in my presence and whether they recorded his statement. I do not know from what time the car was parked there and whether any person had driven it before that day. I do not know

whether police did not inquire about this with anyone there. A vehicle has chassis number. One can identify a vehicle on the basis of the chassis number. I had seen the chassis number but I cannot tell it. The chassis number of that vehicle was written in the panchanama. I did not check the registration book of the vehicle. I do not know whether chassis number of the vehicle is written in the registration book.(Witness is shown page four of the Certificate of Registration Art-272. Hence, it is marked as **Ext.642**). The chassis number is SB-308-IN-1252498. I did not verify the chassis number in Ext.642 and in the panchnama.

28. It is not true that police did not inquire with any person from the building or nearby the building. I cannot say how many persons were present there and with how many persons the police inquired. I do not remember whether police recorded their statements. Police did not go inside the house of Khot and take search. As I did not enter his house, I cannot say whether any other persons were living in that house. I cannot assign any reason why it is not written in the panchanama that police asked the accused to take the search of their vehicle and he declined. I cannot explain the

meaning of the word 'kit'. I cannot say what the word 'kit' mentioned in the panchanama refers to. It is not written in the panchanama that a policeman had some stationery articles in a bag, like papers, tape, small plastic bags, etc. Police did not ask us panchas to take their personal searches. I cannot assign any reason why it is not mentioned in the panchanama that on reaching the house of Khot, the accused told him that he has come with the police and that Khot gave the keys of the car to the accused.

29. I cannot tell with which torch the police inspected the car and how much powerful it was. I cannot say which officer had held the torch and from where it was brought. I do not remember whether it is written in the panchanama that a torch was used for inspecting the car. I cannot assign any reason why there is no mention of use of torch or of any light while preparing the panchanama. We started from the Al Hateem building after completing the panchanama at about 7.30 or 7.45 p.m. I do not remember the name of the person who wrote the panchanama from beginning till the end. Only one officer wrote it. (Attention of the witness is drawn to the last sentence in the 5th and 6th line on the 8th

page of the panchanama). I cannot say when this sentence was written. I cannot say whether it is an interpolation.

30. It is not true that I deposed falsely because of the pressure of the police.

Cross-examination by Adv Rasal for A/1 and 4 to 6

31. Declined.

No re-examination.

R.O.

**Spl. Judge
Date:- 14/10/10**

**(Y.D. SHINDE)
SPECIAL JUDGE
UNDER MCOC ACT,99,
MUMBAI.**

MCOC SPL NO. 21/06

PW-50/26