

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE:9TH MARCH 2011****EXT NO 809****DEPOSITION OF WITNESS NO.75 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Amar Khan Sardar Khan
Age : 39 years
Occupation : Business
Res. Address : Room No.1, A-7, Park Site Colony, Vikroli (W),
Mumbai-79.

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

1. I am staying at the given address with my family since birth. I do the business of typing and zerox. I have friends in my locality. They are Wahiddin Mohd. Shaikh, Irfan and Imran. Wahiddin was a SIMI activist and was residing in my locality. He used to take part in the programs and the activities of SIMI. I had gone with him on one or two occasions for attending the programs of SIMI. He is present in the court. (Ld SPP asks the witness to point out the said person. Witness looks around the court room and points to the accused no.8 sitting in the dock. He is made to stand up and tell his name, which he states as Abdul Wahiddin Mohd. Shaikh). He is the same person. I

met Dr. Tanveer, Ehtesham Siddique and Mohd. Ali in the programs of SIMI that I attended. They are present in the court. (Ld SPP asks the witness to point out the said persons. Witness looks around the court room and points to the accused no.2 sitting in the dock. He is made to stand up and tell his name, which he states as Tanveer Ahmed Ansari. He points to the accused no.4 sitting in the dock. He is made to stand up and tell his name, which he states as Ehtesham Qutubuddin Siddique. He points to the accused no.6 sitting in the dock. He is made to stand up and tell his name, which he states as Shaikh Mohd. Ali Alam Shaikh). These are the same persons. I had once gone to the house of accused no. 6 Mohd. Ali in Shivaji Nagar, Govandi.

2. There used to be aggressive and provocative speeches about jihad at the SIMI programs. The jihad that they were talking about was in respect of atrocities committed on Muslims. Accused no. 2 and 4 used to give such speeches. However, it was my view that they should not talk like this. They used to say that if they want to do something they will take the help from outside and will do anything. Since beginning it was my opinion that they should not use such language and should not think of doing such activities.

3. I had a longstanding friend by name Ajmeri Shaikh, who was residing in Ghatkopar (W). I used to meet him often. We used to go around together. He had also come with us for the programs of SIMI once or twice. His view about the activities of SIMI was like my view. I was sitting talking with the accused no.8, Imran and Irfan in our area in 2001. At that time police from the Park Site Police Station came there and they asked all of us to come to the police station. We asked them the reason for that. They told us that SIMI is banned and we have to accompany them. At that time accused no. 8 told them that it is only he who does the work of SIMI and all the others do not have any concern with it. I was released on bail. The case is still pending.
4. I came to know about the bomb blasts that took place on 11/07/06 in the western railways. Ajmeri Shaikh used to do the work of plaster of paris (POP) and interior decorator and for the purpose of purchasing the material required for POP he used to go on his motor cycle to Govandi. I used to accompany him on his motorcycle. I had so gone with him four or five days before the blast to the Shivaji Nagar in Govandi. He parked the motorcycle outside a lane and we were walking in that lane. Accused no. 6's house is in that lane. Ajmeri said that we would go to his house as we had not met him since many

days and would greet him and then go to our work. We were at some distance from his house. At that time we saw the accused no.2 standing outside his house looking around. At that time the accused no. 6 came out of the house in a hurry and said something to the accused no.2. Then they both went inside the house. At the same time accused no. 4 entered the house from outside with a tea kettle. We both entered the house behind him. We saw three-four more persons sitting there. One person was doing something with a wire. Two-three newspapers were spread in front of the persons. There was white and black coloured powder on the newspapers. When we greeted them, accused no. 6 said that they are busy in some work and that we will meet afterwards. Therefore we came out of the house.

5. I read newspapers. In the Mumbai Mirror of 1st November. (At this stage Id SPP asks the witness whether it was the 1st November. Ld Adv Wahab Khan objects on the ground that the Id SPP is giving a hint to the witness). I now again say that in the Mumbai Mirror dated 01/10/06 a photograph of accused no. 6 was published in the news item concerning the blasts. Ajmeri had read the said newspaper and

he had come and told me about it. Therefore, I also read it. (Witness is shown the first and the last page of Mumbai Mirror dated 01/10/06). This was the same issue of Mumbai Mirror. (It is marked as **Ext.810**). At that time I and Ajmeri thought that we should tell someone about the incident that we saw four-five days before the blasts at the house of the accused no.6, so that the real accused would be caught. After thinking it in deep, on 28/10/06 Ajmeri said to me that we would tell about this to one police constable Vijay Ambekar, who resides in his area. Therefore, we went to his house. His family was present in his house. Therefore, we called him outside and told him about the incident. He told us that we should inform about this to the ATS officers. He took us to the office of the ATS at Nagpada. He talked with some senior officers. Then we were called in the cabin of the officer. That officer also talked with us. He then told PC Ambekar to take us to the ATS office at Bhoiwada. He took us there. He told about us and the information that we had to three-four officers who were sitting in a room. We were called inside that room. We told all that we knew to a superior officer who was there. He had to go out and while going out he told the other officers to take our statements. He told us to sit there and that that officer would record our

statements. That officer took our statements. After the statements were completed he read them over to us in Hindi. He signed it and kept it with him and told us that whenever we are required they will call us. We gave the newspaper to them.

6. Police had asked us to describe the unknown persons whom we had seen in the house of the accused no.6 at Govandi. I will be able to identify those persons if I see them again.
7. One constable came to me on 06/11/06 and asked me to attend the ATS office at 9.00 a.m. on the next day, i.e., on 07/11/06. Accordingly I went there. A police officer, two SEOs, panch and six-seven more witnesses had also come there. Ajmeri had also come there. Police told us that the SEOs would take us to the Arthur Road jail, where we would be required to identify persons. Thereafter, we eight witnesses, the SEOs, some policemen went to Arthur Road jail in two vehicles. When we entered the big gate of the jail, the policeman went inside to complete some formalities. After some time he came and we were made to sit in a room on the right side. The ATS police told us that we should switch off our mobiles and give them and to collect them while going out. The door of the room was closed from outside. After some time a panch came. I was the first. The SEOs had asked all of us

earlier whether police had shown us any accused or their photographs. We said no. The panch who had come there took me through a small gate. There was a big barrack. The SEO was present there. The panch sent me inside and stood outside. The SEO asked me whether I would be able to identify any accused out of the persons standing there. I looked at all the persons and identified one person by touching him and telling the SEO about it. The SEO asked him his name. He told it as Mohd. Sajid. I identified him as the person who was present in the house of the accused no.6 and who was doing something with wire. Accused no. 2 was also amongst those persons. In the second round of the identification parade I identified the accused no. 4 and accused no.6. I had identified the accused no. 2,4 and 6 in connection with their role outside and in the house of the accused no. 6 on the day when we had gone there. Four parades were held on that day. Thereafter we were taken back to the ATS office. We stated what had happened in the parades and about the persons whom we had identified. I will be able to identify the person by name Mohd. Sajid whom I had identified in the parade.(Ld SPP asks the witness to point out the said person. Witness looks around the court room and points to the accused no.7 sitting in the dock. He

is made to stand up and tell his name, which he states as Mohd. Sajid Marjub Ansari). He was the same person. My statement was recorded. The police officer asked us to come on the next day for another identification parade.

8. I went to the ATS office on 08/11/06. From there we went to Arthur road jail where the identification parades like the earlier day were conducted. Fourteen persons were put up for identification in the first two parades and seven persons in the third parade. On the earlier day fourteen persons were put up at the time of all the four identification parades. I did not identify any person on 08/11/06. Thereafter we were again taken to the ATS office. We told what had happened and our statements were recorded. They told us that they will call us in the court.

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

9. I had not taken anything in writing with me when I went for the identification parade. I was in the Arthur Road Prison for about three and a half hours on 07/11/06 and for about two and a half hours on 08/11/06. We all eight witnesses returned together to the ATS office after the parades. It is not true that during this period we got to know each other. We used to sit together in the rooms for about 10-15

minutes at a time. I did not talk with any other person. We did not come to know later on as to who had identified whom. Ajmeri was with me when I had gone to the ATS office on 07/11/06. We were together till we returned from the parades on both days. I did not come to know whom he had identified and he did not come to know whom I had identified. I was the first to be called for the statement when we went back to the ATS office after the parade. Ajmeri was called after me but I do not know whether he was called immediately after me. I do not know the names of the officers who recorded my statements on 07 and 08/11/06. I do not know whether the officer who took my statements was the same officer who took the statements of all the remaining witnesses on both days. There were two-four officers there. Ajmeri did not tell me the name of the officer who recorded his statement. I had stated the names of the persons whom I had identified to the officer recording my statement.

(Adjourned for recess)

Date : 09/03/11

SPECIAL JUDGE

Resumed on SA after recess

10. My typing stall is outside the Ghatkopar railway station. I do job work on the five typing machines that I have. I have one zerox

machine. A zerox operator does the work of zerox. I and my brother Samir Khan conduct the business. I take the job work and distribute it amongst the typists. The zerox operator and the typists collect the charges and keep them in the cash box. They used to keep the tally of the work done. There is a counter in the zerox machine. It is not true that it was not necessary for me and my brother to be present always at the stall. I have one more brother by name Gulistan. Both brothers have passed SSC. Gulistan was married in 2005, but Samir Khan was not married upto 2006. It will be incorrect to say that both were married upto 2006. I do not remember exactly, but Samir Khan might have married in 2007. I cannot say whether both were married when my statement was recorded. At that time we were staying together. I had stated to the police that they were staying with their families with me. I had told the police what work they do. I do not know why police did not write this in my statement. I had stated to the police that only I used to look after the Janata Typing Stall, which was started by my father.

11. I came to know about the blasts on the same day in the night. I used to read the news in the newspapers about the blasts thereafter. It is not true that I used to read them attentively. I used to

watch the news on the television also. It is true that it is only on 01/10/06 that my friend Ajmeri showed me the news item in the Mumbai Mirror. I used to read newspapers like Navbharat Times and Dopaherka Samna. Ajmeri used to meet me often after the blasts. I cannot tell how many times we met from 11/07/06 to 01/10/06. I did not come to know during this time that the accused no. 2,4 & 6 were arrested in connection with the blasts. I came to know about the arrest of the accused no. 6 when I read the news in the Mumbai Mirror on 01/10/06. I did not make any efforts to find out who else out of the persons whom I knew were arrested. I did not have close relations with the accused no.4 and 6. I did not make any efforts to go to the house of the accused no. 6 and find out the factual position. I met Ajmeri many times from 01/10/06 to 28/10/06. I did not come to know during that period which police station was inquiring into the blasts. I knew from the news at what places the blasts had taken place. I did not think of going to the concerned police stations and telling them about the incident. I know that there is a police station and an office of DCB, CID in Ghatkopar. I came to know about the progress of the investigation from the newspapers. I came to know who was investigating the case. As we were thinking about going

through the proper channel to tell about the incident, we did not go to the authority investigating the case. It is not true that police constable Ambekar was not attached to the ATS at that time. The police commissioner had appealed on television and in the newspapers to persons who knew anything about the incident and had given details as to where they should approach for giving the information and had also given the contact phone numbers. I had told PC Ambekar about the pending case against me. I did not know that the ATS police were making inquiries about SIMI members. Ajmeri stays in the same locality where PC Ambekar stays.

12. We went to the house of PC Ambekar at about 10.00-11.00 a.m. We talked with him for about half an hour. I do not know exactly where he was on duty at that time, but he was at Kurla. I do not know on what duty he was on 28/10/06. He was with us throughout the day and returned with us after our statements were recorded. I do not know the name of the officer to whom we were taken at Nagpada office. He heard our entire story. There was no other officer in his cabin at that time. I, Ajmeri, the officer and PC Ambekar were only in the cabin at that time. He did not write down anything. He did not send any officer with us to Bhoiwada, but he sent PC Ambekar. He

did not give any forwarding letter for the Bhoiwada office to take our statement. It was officer Patil to whom we first told about the incident. He heard what we told him. There were three-four other officers in his cabin at that time. I do not know their names. The officer who took my statement also took the statement of Ajmeri. The officer was Alaknure. We reached Bhoiwada office at about 2.00-3.00 p.m. and were there for about one and a half hours. My and Ajmeri's statements were recorded during this period. The officer had asked me as to why we had not come to them for so many days.

13. Govandi is 2-3 kms from Ghatkopar. I had not gone to the house of the accused no.6 before my visit 4-5 days before the blasts. I had met him in the programs of the SIMI. I cannot say how many persons used to attend the programs. I did not know what work the accused no. 4 and 6 used to do. I do not remember whether I had seen any police chowki in the lane in which the house of the accused no. 6 was. It is not true that his house is just adjacent to a masjid. His house is in the lane. There are residential houses around his house. Some houses are having only ground floor, some have ground plus one floor. All the houses are touching each other. There may be a distance of four feet between the houses on either side of the lane. It

is true that it is a thickly populated area. We were at the house of the accused no. 6 on that day for hardly 3-4 minutes. I did not see accused no. 6's family members there at that time. I had seen a cot, but I do not remember what else I saw. It was in front of the door that we entered. I did not pay attention whether there was any other door to that room. From the place where I was standing in the room, I saw persons going to and fro in the lane. There was a half wall near the cot. I did not see what articles were kept behind that half wall. I do not remember how many days before that day I had met the accused no.6, but it was in the SIMI programs. I do not remember when the SIMI programs had taken place, but they had taken place in the Tagore Nagar, Vikroli. I did not count the number of persons present in the programs, which were conducted in the hall of a school. I do not remember the name of the school. Ajmeri was with me at that time. It did not happen that we went to meet the SIMI members as we had not met them since long. I did not pay attention as to whether there were any articles below the cot. All the persons were sitting on the floor in the room. I did not have any talk with any person at that time. I and Ajmeri did not talk about what we had seen in that room, after we came out. We talked about it for the first time on 01/10/06.

We kept talking about it after a day or two thereafter. I cannot tell how many times we talked about it during 01/10/06 to 28/10/06. Ajmeri used to meet me often and he meets me often even now. He is not my childhood friend but he is a longstanding friend. It is true that therefore we share our happiness and sorrow.

14. We were told on 07/11/06 that we had been called there for identification parade. It is not true that we were called there for the purpose of identifying only the unknown persons out of the persons who were present there. I did not ask when the persons whom I knew had been caught. I was told that I was to identify the persons whom I had seen there as well as the persons whom I knew. I knew the names of the persons whom I knew earlier. I do not know whether all the eight witnesses had mobiles with them. Ajmeri had mobile. I had mobile number 9892265124. I do not remember Ajmeri's mobile number. I did not know it by heart at that time. I had given my mobile number to the ATS officers. I do not know whether the other witnesses had given their mobile numbers to them. I do not remember whether Ajmeri had given his mobile number.

15. It is not true that I deposed falsely, that I never met the accused no. 4 & 6, that I did not identify anyone in the identification

parade, that the police gave their names to me therefore I am telling them, that I never went to the house of the accused no.6, that I did not see any person in his house and that I am deposing falsely on the say of the ATS.

Cross-examination by Adv Wahab Khan for A2, 7, 10 & 13

(At 4.50 p.m.: adv Wahab Khan submits that he will cross-examine the witness tomorrow after adv Shetty's cross-examination as he is busy elsewhere in the morning session. Adv Shetty submits that he will start his cross-examination tomorrow morning and requests that cross-examination be adjourned.).

Date: 09/03/11

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

Date : 10/03/11
Resumed on SA

Cross-examination by adv Shetty for A3, 8, 9, 11 & 12

16. I have a visiting card, but I do not have it with me now. I can produce it tomorrow. (Ld adv asks the witness to produce his visiting card tomorrow). I was the first to be called in all the parades. I identified the persons whom I knew as well as those I could identify. I looked at the faces of the persons and their structures before identifying them. It did not happen that some of the persons who were earlier present in the row of persons were repeated in the subsequent parades. I attended the programs of SIMI in the year 2000, but I do not remember the month. It may be that I attended both programs in the year 2000. I did not attend any other program except these programs. Ajmeri was with me in both programs. I knew Irfan and Imran before I became acquainted with Ajmeri. They were

not SIMI activists. I cannot tell the year since when I became acquainted with the accused no.8. Since childhood I know Irfan and Imran. They were not my close friends. I knew them well. It will not be correct to say that they were active members of SIMI. I did not state so to the police when I gave my statement on 28/10/06. It will be incorrect if it is so written in my statement. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'A'). I cannot assign any reason why it is so written in my statement. I have only one case pending against me today. It is of the year 2001 under the Unlawful Activities (Prevention) Act on the allegation that I am a SIMI activist. Imran and Irfan are my co-accused. I was arrested in September, 2001, probably on the 27th. Next date of the case is 19/03/11 in the Vikroli court. We were in custody for about 45-50 days. I am not able to give the CR number or case number. That case is filed by Park Site Police Station. I was not connected with SIMI at any time before the ban in 2001. I never became its member. I am also called by the name Babli. I was arrested in CR No. 877/01 of Park Site Police Station registered on 28/09/01 for the offences u/s 10 and 13 of the UA(P)A. I was arrested on 28/09/01. PSI Keshavkumar Kasar was the investigating officer. It is not true that I was arrested in

CR No. 862/01 of that police station just before 28/09/01 for the offence u/s 102 of the Bombay Police Act. I know that SIMI had conducted a morcha at Azad Maidan on 15/10/00 against Israel and its photograph was published in the Times of India on 16/10/00. I was in that photograph. It is not true that I was seen burning the flag of Israel. It is not true that I, Imran and Irfan were caught by the Park Site Police on 06/12/00 on the allegation that we were doing SIMI activities and LAC case No. 2361/00 was registered against us under the Bombay Police Act for possession of weapons. My statements in paragraph-2 of the chief-examination about the SIMI programs and the proceedings therein refer to the programs that were conducted prior to the ban on SIMI in 2001. In my view the aggressive and provocative speeches about jihad at the SIMI programs were anti-national. The second program that I attended may be four or five months after the first program. The aggressive and provocative speeches mentioned by me took place in the second program. I did not attend any other such program thereafter. I came to know about the ban on SIMI on the date the ban was imposed, i.e., on the day when the police took me, accused no.8, Imran and Irfan to the police station. The last program of SIMI that I attended was the morcha by

SIMI activists on 15/10/00. That was the only program in which the aggressive and provocative speeches were given. I do not know how many people were there in that morcha. There were 10-12 persons from my area in that morcha. There was police bandobast for that morcha. Police did not take into custody or arrest any person from that morcha. I do not know the name of the main person who organized that morcha. I do not know how many and who were the persons who gave the speeches on megaphone. I could hear their voices only on the megaphone. I did not make any complaint orally or in writing to the police upto October, 2006 about the aggressive and provocative speeches on jihad made in the said program that were anti-national. Ajmeri may have been with me in that program. I was arrested for the first time in 2001 about which I described in paragraph-3 earlier. I remembered everything about my arrest earlier, when police took my statement in 2006. Eight persons including me were arrested in that crime. I can give the names of the remaining four. They were Jabbar, Amirullah, Jamshed and Azim. Police took us at about 8.00 or 9.00 p.m. from near my house. I do not know at what time we were arrested. We were taken to the court on the next day at about 1.00 or 1.30 p.m. I had not stated to the police when I gave my

statement that at that time police from the Park Site Police Station came there and they asked all of us to come to the police station, that we asked them the reason for that, that they told us that SIMI is banned and we have to accompany them, that at that time accused no. 8 told them that it is only he who does the work of SIMI and all the others do not have any concern with it.

17. I went to Shivaji Nagar, Govandi because of Ajmeri four-five days before the blasts, otherwise there was no reason for me to go there. I had taken my motorcycle and Ajmeri sat on the pillion seat. I had gone once or twice with Ajmeri before that day to Shivaji Nagar, Govandi. I cannot tell the dates or months of the visits. We had gone to the house of a labourer, however I cannot tell his exact address. I was sitting on my motorcycle outside the lane and Ajmeri had gone inside the lane to meet him.

(Adjourned for recess).

Date : 10/03/11

SPECIAL JUDGE

Resumed on SA after recess

18. I do not remember the exact day or date on which we had gone to Shivaji Nagar, Govandi. On that day we wanted to go to meet a labourer in Govandi. I do not know his name and address.

Ajmeri did not have a motorcycle in 2006. The door of the house of the accused no.6 opens in the lane. The lane was about 3-4 feet wide. There was open space in front of the house of the accused no.6. There is a public water tap in front of his house. I did not see the number of taps. I cannot tell the measurement of the public tap. I do not know whether there is an open space behind the public tap. We did not have any talk with the persons in that locality. It is true that the structures in that lane were like huts. I did not enter the house, but I stood at the door. I cannot tell the measurements of the room of the accused no.6. I cannot even approximately tell the measurements of the cot. I cannot tell the direction in which the entrance door was facing. I cannot tell the directions of the cot. I cannot say whether it was 4 x 6 feet or whether it was 3 feet high. It was not box type. It was horizontal to the door. I did not see whether there was a wall unit or steel cupboard in that room. I cannot tell the measurements of the open floor space in the room.

19. I parked the motorcycle at a distance of 20-25 steps from the house of the accused no.6 on the road outside the lane. I do not remember the name of any shop or any landmark near that place. Before that day and after that day I have had no occasion to go to

that area again. I had taken my motorcycle, driven it and parked it on that day. We were near the motorcycle when we first saw the accused no.2 outside the house of the accused no.6. I was not surprised on seeing him. I do not know where he was working during that time. However, I knew that he was a doctor by profession. We had parked the motorcycle there for going to the house of the accused no.6. It did not happen that we saw the accused no.2 outside the house of the accused no. 6 as if he was keeping a watch on someone, therefore, we did not go to meet him. Ajmeri did not tell me that we would not go there after we saw the accused no. 2 standing there. Ajmeri does not know how to drive a motorcycle. I now again say that I used to go with him on my motorcycle and I had parked the motorcycle outside the lane. What I stated in my chief-examination is not correct. I had stated to the police that at that time we saw the accused no.2 standing outside his house looking around, that at that time the accused no.6 came out of the house in a hurry and said something to the accused no.2, that then they both went inside the house, that at the same time accused no.4 entered the house from outside with a tea kettle. I cannot assign any reason why these things are not written in my statement. (Ld SPP submits that it

can be so gathered from the sentences). I had not earlier seen the person who was doing something with the wire. I do not know what they were doing there. I and Ajmeri did not ask those persons as to what they were doing. Immediately after Ajmeri entered the room and we greeted the accused no.6, he told him that they are busy in some work and that we would meet afterwards. This is the reason why I did not go inside the room and stood outside the door.

20. We had no suspicion in our mind about what we saw in that room till we read the news in the Mumbai Mirror on 01/10/06. I did not read the entire news item. I can read English. Ajmeri had the newspaper with him when we went to the ATS office on 28/10/06. I saw that newspaper for the first time on 01/10/06. I and Ajmeri returned back together at about 4.00-5.00 p.m. after our statements were recorded on 28/10/06. I and Ajmeri went together to the ATS office and returned together. During this time PC Ambekar was with us. Officer Alaknure signed our statements. Alaknure made the inquiry with us. I identified the accused no.6 on seeing his photographs in the Mumbai Mirror on 01/10/06. On reading that news we thought that bombs were prepared in the house of the accused no.6. I did not come to know on reading the news that the accused

no. 6 was caught in connection with the bomb blasts and after being detained for many days, he was released. (Ld adv asks the witness to read the second paragraph in Ext. 810). It is true that it is written therein that the accused no. 6 was detained on 14/07/06 by the Mumbai Police in connection with the blasts. We had taken the entire issue of the said Mumbai Mirror with us when we went to the ATS office on 28/10/06 and had given it to the police. Ajmeri did not read the news item to me when he came to me on 01/10/06. I was present when he produced the paper before the police. He did not read the news item to the police. I did not tell the police that Ajmeri had read over the news item in the Mumbai Mirror dated 01/10/06 to me. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as '**B**'). I cannot assign any reason why it is so written in my statement. It is true that the news item is continued on page no. 8, but that page is not before the court.

21. It is not true that I deposed falsely to save myself in the case against me and to help the police, that I had not gone to Govandi and I had not seen anything there. (Ld adv submits that he reserves his cross-examination on the point of the visiting card of the witness that he is asked to produce).

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

22. Ajmeri is my good friend, but not a very close friend. I used to feel that he hid some things from me. We were friends before 2003. We used to meet once or twice in a week. He had taken me to the house of the accused no.6. He had brought the issue of Mumbai Mirror. He took me to the house of PC Ambekar. It was because of him that we thought over the matter upto 28/10/06 after we read the news item on 01/10/06. Before that I did not know that he had relations with the Crime Branch police. I had heard about the bomb blasts at Gateway of India and Zaveri Bazar in 2003. I and Ajmeri had talked about those blasts before 2006. He had told me that he had given statements to the Crime Branch in that case against accused Hasan Bateriwala and Rizwan Laddu. He did not tell me that the POTA Review Committee had recommended to the police to release the said accused. He did not tell me that they were released after the order of the Supreme Court by way of discharge. He did not tell me how he became acquainted with the Crime Branch police. I did not understand from our talks that he was acquainted with some persons in the Crime Branch. I do not know till today whether PC Ambekar was attached to Kurla Crime Branch unit of Vijay Salaskar of Anti

Robbery Cell. It did not happen that I had not gone to the house of the accused no.6 once before that day. I had not stated so to the police. I had not stated that I had gone once before that day along with accused no.8 and Ajmeri. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'C'). I cannot assign any reason why it is so written in my statement. It did not happen that I used to attend the programs and functions of SIMI in between. The words 'in between', i.e., 'adhun madhun' can be understood to mean two times. I was not acquainted with many activists of SIMI. It did not happen that because of me Ajmeri also got acquainted with a number of SIMI activists and in the meetings greetings used to be given. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'D'). I cannot assign any reason why it is so written in my statement.

(Adjourned at the request of Id adv at 5.00 p.m.).

Date:10/03/11

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

Date: 11/03/11
Resumed on SA

23. I have brought my visiting card. (Witness hands over the visiting card, which is given to the learned advocates for the accused for perusal. It is received in evidence as the witness was directed to produce it and as learned advocates for the accused consent. Hence, it is marked as **Ext.814**). I do not remember the date and

month of the first meeting in the year 2000 and of the second meeting in the year 2000 or 2001. I had attended them before the ban on SIMI. There was no talk about jihad or any provocative speech in the first meeting. After attending the first meeting I did not think that they are doing something wrong and that I should not attend further meetings. The date and time of the second meeting was not decided in the first meeting. Ajmeri did not take me to the second meeting. I did not tell him to come with me. I had not read about it in the newspapers. I did not do any work for SIMI even after the second meeting. After the second meeting I did not think that I should go and inform the police. I felt that I did wrong in attending it. I did not feel that I should not keep relations with the persons who were in that meeting and should not even greet them. I do not know whether there were any other meetings of SIMI after the second meeting. I did not give any speech in it. I did not raise any protest in that meeting. I did not tell Ajmeri that we should not have attended that meeting. I did not think that I would come in trouble since I had attended that meeting. I did not show the places of both the meetings that I attended to the ATS police and they did not ask me to show them. I was arrested and chargesheeted on the allegation that I am an

activist of SIMI. Except this there is no other allegation against me.

24. (Ld adv asks the accused no. 4 to stand up and asks him whether he had seen the accused no. 4 doing something with the wire when he visited the house of the accused no.6). I may have seen the accused no.4 joining the wires. I knew him earlier. I had seen an unknown person joining the wires. I now again say that I had not seen the accused no. 4 joining the wires. It did not happen that I identified the accused no.4 in the prison as the person whom I had seen joining the wires.

25. It is not true that the other seven accused in the case against me are not known to me. Accused no.8 was present at the time of the first identification parade on 08/11/06, but I did not point him out. Police did not ask me to describe any persons when I gave my statement on 28/10/06 and I did not describe them on my own to them. I do not remember whether I met ACP Patil on 07/11/06 when I went to the ATS office. It did happen that I met only one SEO in the ATS office. It did not happen that it was in the prison that ACP Patil introduced SEO Barve to me. We were outside the prison for about half an hour before we were taken inside. The SEO who had accompanied us was with us during this time. SEO Purandare was

with us. I met SEO Barve for the first time in the prison. He was not introduced to us by anybody. He had come to meet us in the right side room where we were made to sit. I waited in that room for five minutes before I was taken for the first identification parade. I was directly taken to the place where the parade was held. Both the SEOs were not with us when we were in that room. I had not seen Supdt. Swati Sathe there. I do not know whether both the SEOs went together inside the prison. I did not see Supdt. Swati Sathe in the identification room at any time. I may have gone inside the parade room on the first occasion on 07/11/06 at about 11.45 or 12.00 a.m. and on the last occasion at about 1.00 or 1.15 p.m. I cannot say whether the accused no. 2,4,6 & 7 were not taken out from their barracks upto 11.45 a.m. on that day. The identification room was not an open place. I cannot say whether the accused no.2,4,6 & 7 were taken out from their barracks at 12.35 p.m. and were put back at 12.40 p.m. on 07/11/06.

26. The fact that we had gone to the house of the accused no. 6 four-five days before the blasts was an important fact. I cannot say exactly whether it was four days before or five days before. The ATS officer did not ask me to tell the exact date when he took my

statement. It was probably a Sunday. It did not happen that I had gone two-three days before. I had stated to the police that I had gone four-five days before. I did not state to them that I had gone two-three days before. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as '**E**'). I cannot assign any reason why it is so written in my statement and why it is not written that I had gone there four- five days before.

27. Ajmeri is married. I did not attend his marriage. I do not know his wife's maiden name. She is a converted Muslim. I cannot say exactly whether he does the work of interior decoration and POP personally or whether he supplies the material. He had an office at Ghatkopar. I do not know whether he purchases POP material from Kurla area. It did not happen that whenever we met we used to discuss about the accused no. 8 and his SIMI activities and Ajmeri had told me to keep away from these things. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as '**F**'). I cannot assign any reason why it is so written in my statement. I had stated to the police that in September, 2001 when I was sitting with Wahid teacher, Imran and Irfan, suddenly police of Park Site Police Station took us in their

custody showing us to be SIMI activists and arrested us under the Unlawful Assembly Act saying that SIMI organization is banned. The ATS police did not show me the accused no. 8 in the office and did not ask me to identify him in the prison. I had seen the accused no. 8 only in the Arthur Road Prison after 01/10/06.

28. I had first seen the accused no.2 from the distance of 20-25 steps and there was no other person there. It did happen that I had stated to the police that at that time we had an occasion to go from the side of the house of the accused no.6 whom we knew and who was connected with the SIMI organization, at that time said above mentioned SIMI activist talked with the accused no. 2 outside his house and then again went inside. We were not stopped from going inside the lane. No one stopped Ajmeri from going inside the room. The door of the room was open when we went there. One could see the room inside from the door. I did not talk with Ajmeri when he was in the room. I did not think at that time that those persons were preparing bombs. Ajmeri also did not say so to me. We did not suspect anything at that time. I do not know whether thirteen persons live in the house of the accused no.6, that from 08/07/06 to 11/07/06 the children and the women of his house used to be in the

house for the whole day. We did not have tea at the house of the accused no.6. I did not talk with the accused no. 6. It did not happen that I and Ajmeri were talking with the accused no. 6 and during our talks the accused no.4 gave us tea. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'G'). I cannot assign any reason why it is so written in my statement.

29. Police showed me two photographs in the ATS office on 08/11/06. They told me that one photograph is of Salim who was killed in the bomb blasts and the other photograph is of Mohd. Ali @ Abu Osama @ Abu Umed who was killed in police encounter. I did not know any of them. I watch news on the television. I do not know whether Rakesh Maria, Joint Commissioner of Police had said in an interview with the media in 2008 that the blasts had been done by Indian Mujaheedin. I had not seen whether any accused in this case was shown on the television confessing to have committed the blasts. I had stated to the police that I had gone with the accused no. 8 to attend 'one or two programs' of SIMI (emphasis on 'one or two programs'), that Ajmeri had also accompanied me in those one or two programs, that his view about the activities of SIMI was like my view,

that PC Ambekar's family was present in his house, that therefore, we called him outside and told him about the incident. I cannot assign any reason why these things are not written in my statement.

30. I was in Mumbai doing my routine work during 11/07/06 to 28/10/06. Ajmeri's house is fifteen minutes distance from my house by autorickshaw. I cannot say whether I used to meet Ajmeri, either personally or on phone, daily from 01/10/06 to 27/10/06. I cannot say how many times I met him during this period. We used to talk about the news item whenever we met. Crime Branch office at Ghatkopar is at a distance of 20-25 minutes by autorickshaw from the house of Ajmeri. I do not know whether the ATS and the Crime Branch police had appealed in the media to persons who knew anything about the incident and had given details as to where they should approach for giving the information and had also given the contact phone numbers.

31. I was aware before 01/10/06 that Ajmeri had given statement to the Crime Branch office at Ghatkopar earlier in connection with Gateway of India blasts. In between 01/10/06 and 27/10/06 I did not say to him that we would go to the Crime Branch police to whom he had earlier given his statement. He also did not say this to me or suggest it to me.

32. I have not read much religious books. I have not read any book on jihad. I have not made any research and have not studied the meaning of jihad from the point of religion. I do not know whether jihad is a Persian word or an Arabic word. I do not know the meaning of jihad.

33. I do social work. I do not hold any political post now. I was ward president of BJP from 2007 to 2010. I am a member of the BJP even now. I had got that post after working as a ground level member for five years. Ajmeri was not a member of the BJP. I do not know to which party he belongs. My motorcycle was bearing registration number MH-03-AG-794. I never went to the police in connection with social work or with the work of my party. The symbol of my party is painted on my motorcycle. It did not happen that I and Ajmeri went inside the house of the accused no.6 and I did not state so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'H'). I cannot assign any reason why it is so written in my statement. It is not true that accused no. 2,4 & 7 were not at the house of the accused no.6 when we went there. The ATS police did not ask me to describe the facial features of any person whom I had seen there. They did not prepare any sketch with

my help. It is not true that they had shown me photographs of the accused no. 2,4,6 & 7 when I went to their office for the first time. It is not true that the ATS police told me to state about the wire and powder. It is correct that Ajmeri and PC Ambekar took me to the ATS police. Before going to the constable, Ajmeri did not tell me that I would have to give statement. Ajmeri is alive. It is not true that I deposed falsely on the say of the ATS police and Ajmeri, that I identified the accused as they had shown me their photographs, that accused no. 2 and 4 had given aggressive and provocative speeches. It is not true that I had never seen the said accused in the meetings of SIMI, that I did not attend any identification parade and did not identify any accused. I did not go to the house of the accused no. 6 on 10/07/06. it is true that it was Sunday on 2nd and 9th of July, 2006. It is not true that I deposed falsely.

(LD SPP submits that the evidence of the witness be kept open since he wants to go through it and see whether there is any ambiguity. Ld advs objects to it. To my mind, since the cross-examination of the witness is done by three advocates at length, the prosecutor is entitled to get an opportunity to go through the evidence and to decide about it).

(Y.D. SHINDE)

Date:-11/03/2011**SPECIAL JUDGE****Date :-14/03/2011**

(Ld. SPP requests permission to re-examine the witness in connection with his statement in chief-examination that 'Accused no.2 and 4 used to give such speeches.' and his answer in cross-examination on page 21 'I do not know how many and who were the persons who gave the speeches on megaphone.' as an ambiguity has arisen about it. Ld. advs. for the accused submit that there is no ambiguity in the answers given by the witness and re-examination cannot be used to nullify the admissions given in cross-examination.

In my opinion, though the answer in the cross-examination referred to above is in continuation to the questions concerning the topic, there is no direct suggestion to the witness denying his statement in chief-examination. During his cross-examination on page 29, the witness has denied the suggestion that he deposed falsely in his chief-examination about it. Hence certainly there is an ambiguity in his answer on page 21. Hence, re-examination is allowed.)

RE-EXAMINATION BY SPP RAJA THAKARE FOR THE STATE.

34. Question : How do you explain your statement in chief-examination that 'Accused no.2 and 4 used to give aggressive and provocative speeches about jihad.' and your answer in cross-examination on page 21 'I do not know how many and who were the persons who gave the speeches on megaphone.'?

Ans. My statement in chief-examination relates to the aggressive and provocative talks of the accused nos. 2 and 4 after the program of Azad Maidan but at the same place when about 5-7 people were around. Otherwise also whenever we used to meet, the accused nos. 2 and 4 used to talk aggressively and provocatively about jihad.

RE-CROSS-EXAMINATION BY ADV SHETTY FOR A3, 8, 9, 11 AND 12

35. I did not state the above things to the police when I gave my statement on 28/10/2006. I did not give any reference to the morcha on Azad Maidan.

RE-CROSS-EXAMINATION BY ADV WAHAB KHAN FOR A 2, 7, 10 AND**13**

36. The morcha at Azad Maidan was not for a limited number of persons. It was in day time. There was no arrangement that the speeches on the megaphone could be heard only by the persons present in the morcha and would not be heard by the persons on the streets nearby. There was no restriction that any particular community could only attend that morcha. I did not think that the program was held clandestinely and without the permission of the police. It continued for about one and half to two hours. Police vehicles and policemen were outside the ground and there were policemen in uniform in the ground also. The morcha was in connection with atrocities that Israel government was doing on its subjects. The police did not take down the names of the persons present in the morcha, did not take any action against any person and did not arrest any person present in the morcha. There were no clashes with the police. It is not true that I deposed falsely that the accused nos. 2 and 4 gave aggressive and provocative speeches on jihad after the program of Azad Maidan but at the same place when about 5-7 people were around and otherwise also whenever we used to meet,

the accused nos. 2 and 4 used to talk aggressively and provocatively about jihad.

Re-Cross-examination by Adv Rasal for A1 and 4 to 6

Declined.

R.O.

Special Judge

Date:-14/03/2011

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

Date: 29/08/12
Resumed on SA

Further cross-examination by adv Sharif Shaikh for A4 and A5 as per the order below Ext. 3041

37. The motor cycle no. MH-03-AG-794 is registered in the name of my brother Sameer Khan. I had not gone to Govandi on this motor cycle 4-5 days before the blasts. I am using this motor cycle since 2006-2007. It is not true that I do not know which motor cycle I was using when I had gone to Govandi 4-5 days before the blasts. I had a Splendor motor cycle. The said Splendor motor cycle was in the name of my brother Sameer Khan and its registration no. MH-03-X-7550.

38. I was called to the Park Site Police Station 1or 2 days after the blasts and the police had inquired with me, but it was not 4-5 hours. I do not remember whether I was called at 5.05 a.m. on 12/07/06 and allowed to go at 10.10 a.m. My statement was recorded at that time. I had not stated about my visit to Govandi 4-5 days before the blasts to the police officer at that time, because at that time I was not knowing its relevance and I came to know only when I saw the photo in the Mumbai Mirror. It did not occur to me on seeing the photograph that I should go to the Park Site Police Station

and tell the officer about it. Persons like Imran, Irfan, Wahid Din Mohd. Shaikh who were known to me had also been called there. Ajmeri Shaikh was not called along with me.

39. There is a trust by name Sardar Khan Foundation, which is in the name of my father and I have created it. I am its president. It is a charitable trust with the objects of providing education and medical help to poor people and other social activities. It is not true that officer Alaknure did not record my statement on 28/10/06. It is not true that I deposed falsely. It is true that the person Wahid Din Mohd. Shaikh about which I stated earlier is the same person who is an accused in this case.

R.O.

Special Judge

Date:-29/08/2012

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

Date: 04/02/14
Resumed on SA

Further cross-examination by adv Khan Abdul Wahab as per the order of the High Court dated 30/01/14 in Cri. Appeal No. 1194/13

40. It is true that I was called in the Unit-VII of the Crime Branch at Ghatkopar on 13/07/06 in connection with the bomb blasts that had taken place on 11/07/06. I cannot say whether they inquired with me for about three or four hours, but they may have inquired with me for about one hour. The officers inquired with me in general about my mobile number and my whereabouts prior to and subsequent to 11/07/06. They asked me how I came to know about the bomb blasts. It is not true that two-three different officers made the inquiry with me. They inquired with me about my friends. They asked me whether I had any cases against me earlier and similar questions about my friends. I had stated about my friends by name Irfan Shaikh, Imran Shaikh, Azim Kazi, Jabbar Khan and Aminullah Khan.

Q. Whether you gave any information in respect of the blasts?

A. No.

I did not tell those officers that I visited the house of Mohd. Ali 4-5 days before the blasts and I saw what I described earlier.

Q. You did not tell this to the Crime Branch officers as you had not

seen it personally, but you were informed by Ajmeri Shaikh? (Witness is given his deposition to refresh his memory as his evidence was recorded about two years before and he is directed to read paragraph 4. Learned advocate submits that the answer of the witness be recorded first and then he be given his deposition for reading).

A. It is correct. (In view of the answer given by the witness, his deposition is not given to him for reading).

I did not tell it because Ajmeri Shaikh told me when he read the Mumbai Mirror. It is true that when we went to the lane, I stood outside and only Ajmeri Shaikh went inside the house of Mohd. Ali. I did not feel it necessary to go inside the house.

41. It is true that I was called to the Crime Branch many times for inquiry after 13/07/06. It is not true that I deposed falsely that I and Ajmeri Shaikh had gone to the house of Mohd. Ali four-five days before the blasts and that Ajmeri Shaikh told me about what he saw in the house of Mohd. Ali when he read the Mumbai Mirror. It is not true that even today I am under a great pressure of the ATS. It is not true that I fear that if I tell the truth, I would be involved in some or the other case. Ajmeri Shaikh was not called with me whenever I was called by the Crime Branch.

Q. Whether you are very much troubled in your entire life because of the cases in connection with SIMI against you?

A. One is always troubled because of court cases.

(Learned SPP submits that he wants to re-examine the witness for clearing the ambiguity with regard to the inquiry that was made by the Crime Branch on 13/07/06. Learned advocate Wahab Khan objects on the ground that there is no ambiguity. Heard both sides. Re-examination is permitted).

Re-examination by SPP Raja Thakare for the State

42. The Crime Branch officers did not inquire with me about any other thing except my mobile number and my whereabouts prior to and subsequent to 11/07/06, about how I came to know about the bomb blasts, about my friends, whether I had any cases against me earlier and similar questions about my friends and I told the names of my friends Irfan Shaikh, Imran Shaikh, Azim Kazi, Jabbar Khan and Aminullah Khan.

R.O.

Special Judge

Date:-04/02/2014

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