


MHND010002502007 	Received on :22/01/2007 Registered on:22/01/2007 Decided on :04/01/2025 Duration : YY/MM/DD 17/ 11 / 13 Exhibit No. : ()
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	<i>IN THE COURT OF SESSION, NANDED.</i> Present : C.V. Marathe, Addl. Sessions Judge (Date of Judgment: 04/01/2025) Sessions Case No.14/2007
	<i>Crime No. : 99/2006</i> <i>Police Station: Bhagyanagar, Tal. Dist; Nanded</i>
COMPLAINANT	State of Maharashtra, Through Police Station Bhagyanagar, Nanded, Tq. Dist. Nanded.
REPRESENTED BY	Spl. P. P. Shri. D.U. Darade
ACCUSED	1. Rahul Manohar Pande, (Abated) Age: 26 years, Occu.:- ---, r/o. Plot No.36, Bhandari Mala, Pawdewdi Naka, Parimal Nagar, Nanded. 2. Laxman Gundayya Rajkondwar, (discharged) 3. Sanjay @ Bhaurao Vitthalrao Choudhari, Age: 26 years, Occu.:- --, r/o. Gandhi Nagar, Nanded 4. Ramdas Anandrao Mulange, Age: 22 years, Occu.:- labour, r/o. Bajrang Colony, BehindRenapurkar Complex, Nanded 5. Dr. Umesh Dinkarrao Deshpande, Age: 36 years, Occu.:- Medical Practitioner, r/o. Ganesh Nagar, Nanded. 6. Himanshu Vyankatesh Panse (Dead) 7. Naresh Laxman Rajkondwar (Dead) 8. Maroti Keshav Wagh, Age: 27 years, Occu.:- --,

1	Rahul Manohar Pande (dead)	31.05. 2024	--	4(b), 5 of the Explosive Substance Act, 304 Part-1,286, 338, 212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC, 3/25 (1B)(a) Arms Act, 18 and 23 of Unlawful Activities Act.	---	N.A.	N.A.
3	Sanjay @ Bhaurao Vitthalrao Choudhary	09.04. 2006	29.04. 2006	212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC,	Acquitted	N.A.	N.A.
4	Ramdas Ananda Mulange	10.04. 2006	29.04. 2006	212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC,	Acquitted	N.A.	N.A.
5	Dr. Umesh Dinkarrao Deshpande	10.04. 2006	29.04. 2006	212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC,	Acquitted	N.A.	N.A.
8	Maroti Keshav Wagh	10.04. 2006	13.04. 2007	4(b), 5 of the Explosive Substance Act, 304 Part-1,286, 338, 212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC, 3/25 (1B)(a) Arms Act, 18 and 23 of Unlawful Activities Act.	Acquitted	N.A.	N.A.
9	Yogesh Ravindra Deshpande	10.04. 2006	13.04. 2007	4(b), 5 of the Explosive Substance Act, 304 Part-1,286, 338, 212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC, 3/25 (1B)(a) Arms Act, 18 and 23 of Unlawful Activities Act.	Acquitted	N.A.	N.A.
10	Gururaj Jairam Tuptewar	10.04. 2006	13.04. 2007	4(b), 5 of the Explosive Substance Act, 304 Part-1,286, 338, 212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC, 3/25 (1B)(a) Arms Act, 18 and 23 of Unlawful Activities Act.	Acquitted	N.A.	N.A.
11	Milind Arvind Ektate,	10.04. 2006	04.12. 2006	212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC,	Acquitted		
12	Mangesh Ramdas Pande,	10.04. 2006		212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC,	Acquitted		
13	Rakesh Dattatrya Dhawade	10.04. 2006		4(b), 5 of the Explosive Substance Act, 304 Part-1,286, 338, 212 Part-II, 201 Patt-II, 201 r.w.s. 149 of IPC, 3/25 (1B)(a) Arms Act, 18 and 23 of Unlawful Activities Act.	Acquitted		

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE <small>(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</small>
PW-1]	Pramod Raghunath Tuptewar	Panch witness
PW-2]	Dattatraya Baburao Borade	Sanctioning authority
PW-3]	Dr. Pankaj Gopalkrishna Basatwar	Medical practitioner
PW-4]	Radheshyam Laxmanrao Mopulwar	Sanctioning authority.
PW-4]	Ruprao Nathoji Deshmukh	Medical Practitioner
PW-5]	Dr. Manish Bhagwanrao Deshpande	Medical practitioner
PW-6]	Dr. Manish Vijaykumar Katruwar	Medical practitioner
PW-7]	Dr. Arun Gurubasappa Katte	Medical Practitioner
PW-8]	Prabhakar Nivrutti Dhage	Police Witness
PW-9]	Dr. Deelip Ramrao Fugare	Medical practitioner
PW-10]	Gajanan Nagnathrao Pathak	Medical practitioner
PW-11]	Arvind Wamanrao Joshi	Witness
PW-12]	Dr. Deepak Vasantrao Kesari	Panch witness
PW-13]	Amol Madhukarrao Jadhav	Witness
PW-14]	Jomakhan Ambiyakhan Pathan	Police witness
PW-15]	Mohd. Manjur Husen Mohd. Jafar Husen	Police witness
PW-16]	Shivdas Ganpatrao Gudup	Police witness
PW-17]	Rameshwar Kishanrao Sonwale	Police witness
PW-18]	Sayyad Majharulla Amirulla Bukhari	Police witness
PW-19]	Bapu Bhimrao Sangle	Police witness
PW-20]	Shankar Madhavrao Mahabale	Panch witness
PW-21]	Mukesh Sureshrao Tekale	Witness
PW-22]	Ravindra Purushottam Dehedkar	Police witness
PW-23]	Devidas Narayan Choudhari	Panch witness
PW-24]	Amar Anirudha Deshpande	Panch witness

PW-25]	Vishwas Malhari Bodare	Panch witness
PW-26]	Sudam Dadarao Jakore	Police witness
PW-27]	Machindra Gangagir Gir	Panch witness
PW-28]	Madhav Gangaram Kadam	Panch witness
PW-29]	Chandrasah Rajaram Bodkhe	Forensic witness
PW-30]	Jagnnath Ramji Dulewad	Witness
PW-31]	Sanatkumar Rangvitthal Bhate	Witness
PW-32]	Rajendra Madhavrao More	Police witness
PW-33]	Prashant Govindrao Deshpande	Police witness
PW-34]	Ramesh Dwarkoji Bhurewar	Investigating officer
PW-35]	Virbhadra Keshav Surwase	Police witness
PW-36]	Janardhan Yashwantrao Wakolikar	Witness
PW-37]	Atul Vinodrao Kamtikar	Witness
PW-38]	Avinash Devidas Pande	Witness
PW-39]	Milind Gajanan Natu	Witness
PW-40]	Sudhnava Dhananjay Devle	Witness
PW-41]	Rajendra Dnyanoba Indalkar	Witness
PW-42]	Shrikant Trimbak Mahajan	Police Witness
PW-43]	Vijaykumar Hasanna Panhale	Police witness
PW-44]	Pravin Balasaheb More	Police witness
PW-45]	Dr. Sandip Avadumber Chetty	Forensic witness
PW-46]	Raman Tyagi	Investigating officer
PW-47]	Deven Pardeshi	Police witness
PW-48]	Dr. Malini Subramanyam	Forensic Witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW	-----NIL-----	-----

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW	-----NIL-----	-----

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1]	Exh.208/PW-1	Inquest panchnama
2]	Exh.336/PW-3	Consent letter
3]	Exh.350/PW-4	Sanction order
4]	Exh.376/PW-4	Sanction order
5]	Exh.377/PW-4	Sanction order
6]	Exh.387/PW-8	Letter issued by BDDS Aurangabad to PS Bhagyanagar
7]	Exh.393/PW-9	Postmortem report
8]	Exh.398/PW-9	Provisional postmortem report
9]	Exh.405/PW-10	Seizure panchnama
10]	Exh.494/PW-12	Seizure panchnama
11]	Exh.468/PW-14	Seizure panchnama
12]	Exh.479/PW-16	Arrest panchnama
13]	Exh.484/PW-17	Seizure panchnama
14]	Exh.487/PW-18	Seizure panchnama
15]	Exh.503/PW-19	Report
16]	Exh.509/PW-20	Panchnama
17]	Exh.511/PW-21	Spot panchnama
18]	Exh.512/PW-21	Panchnama
19]	Exh.514/PW-22	Report
20]	Exh.520/PW-24	Seizure panchnama

21]	Exh.525/PW-26	Letter issued to Chemical Analysis, Aurangabad
22]	Exh.527/PW-27	Seizure panchnama
23]	Exh.528/PW-28	Seizure panchnama
24]	Exh.533/PW-29	CA report
25]	Exh.545/PW-32	Seizure panchnama
26]	Exh.546/PW-33	Seizure panchnama
27]	Exh.553/PW-34	Arrest panchnama
28]	Exh.564/PW-34	Arrest panchnama
29]	Exh.565/PW-34	Copy of seizure panchnama in SC 69/2009 at Parbhani
30]	Exh.568/PW-34	Copy of muddemal list
31]	Exh.566/PW-34	Seizure panchnama
32]	Exh.567/PW-34	List of Seizure of Articles
33]	Exh.573/PW-35	Arrest panchnama
34]	Exh.585/PW-42	Inspection note
35]	Exh.586/PW-42	Letter issued by PS to CA, Mumbai
36]	Exh.587/PW-42	Copy of case diary
37]	Exh.590/PW-44	Seizure panchnama
38]	Exh.591/PW-44	Portion of statement
39]	Exh.594 and 595/PW-45	CA reports
40]	Exh.597/PW-46	Examination report
41]	Exh.606/PW-47	Panchnama
42]	Exh.607/PW-47	Panchnama
43]	Exh.608/PW-47	Letter
44]	Exh.612/PW-48	Report in Polygraph examination
45]	Exh.613/PW-48	Report on Brain mapping examination
46]	Exh.614/PW-48	Report on polygraph examination
47]	Exh.615/PW-48	Report in Brain mapping examination
48]	Exh.616/PW-48	Report of Narco Analysis

		examination
49]	Exh.617/PW-48	Report on Brain mapping
50]	Exh.618/PW-48	Report on polygraph examination

B. Defence:

Sr. No.	Exhibit Number	Description
	NIL	-----

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
	NIL	-----

D. Material Objects :

Sr. No.	Material Object Number	Description
	NIL	-----

JUDGMENT

(Delivered on 04th day of January 2025)

The accused persons are prosecuted for the offences punishable under Sections 4(b), 5 of the Explosives Substances Act, 1908 (hereinafter 'ES Act'), sections 304 (Part-1), 286, 338, 212, 201, r.w.s. 149 of Indian Penal Code (hereinafter 'IPC'), Section 3/25 (1B)(a) of Arms Act and sections 18 and 23 of Unlawful Activities (Prevention) Act, 1967 (hereinafter 'UAPA').

2. Before beginning with the narration of prosecution case, it will be apposite to mention that the investigation of the offences was carried out by three investigating agencies i.e. Bhagyanagar Police Station, Anti Terrorist Squad (hereinafter 'ATS') and Central

Bureau of Investigation (hereinafter 'CBI') and three charge-sheets/supplementary charge-sheets are filed by them. There are total 13 accused persons against whom final reports are filed. One of the accused persons i.e. accused No.2 Laxman Gundayya Rajkondwar was discharged by the Hon'ble Bombay High Court vide order dated 21.08.2009 in Cri. Appln. No.319/2009. The accused No.6 Hemanshu Panse and accused No. 7 Naresh Rajkondwar died during the incident of alleged blast dated 06.04.2006. Therefore, the instant trial began against 10 accused persons. However, while framing the charge against these 10 accused persons, their serial numbers are mentioned from 1 to 10 after excluding the names of the above three accused persons. Resultantly, in the course of recording evidence of various witnesses there serial numbers are mentioned as per the charge and not as per their sequence as per final reports. Therefore, to avoid confusion and to bring clarity, following chart is prepared showing their serial number as per the final reports and serial number as per the charge.

Name of the accused against whom trial commenced	Serial number as per the charge-sheet	Serial number mentioned in the charge.
Rahul Manohar Pande,	1	1
Sanjay Bhaurao Choudhary	3	2
Ramdas Ananda Mulange	4	3
Umesh Dinkarrao Deshpande	5	4
Maroti Keshav Wagh	8	5
Yogesh Ravindra Deshpande	9	6
Gururaj Jairam Tuptewar	10	7
Milind Arvind Ektate	11	8
Mangesh Ramdas Pande	12	9
Rakesh Dattatraya Dhawade	13	10

In the judgment, the names of these accused persons will be referred to along with their serial number as per sequence in the charge-sheet/supplementary charge-sheet and not on the basis of their serial numbers in the charge (Exh.160).

3. To make the record clear, it is mentioned that the matter was stayed by the Hon'ble High Court vide order in Cri. Revn. Appln. No. 57/2012. However the said revision application came to be disposed off and the stay was vacated. Thereafter, on 29.08.2022 one person namely Yahswant Shinde filed an application (Exh.431) to array him as witness in the matter. The said application came to be dismissed on 17.01.2023. The said person filed Cri. Writ Petn. No. 732/2023 before the Hon'ble Bombay High Court, Aurangabad Bench. The said writ petition is pending. However, both the parties have clarified upon inquiry that there is no stay to the instant case by the Hon'ble High Court even though the next date given is 24.01.2025. Therefore, there is no impediment to proceed with the matter.

4. Let me travel through the facts presented by the prosecution in summary:-

a) On 06.04.2006 the informant PW-22 Ravindra, the then Asst. Police Inspector (API) attached to Bhagyanagar Police Station, received information that a blast occurred at Patbandhare Nagar. Upon receipt of such information he rushed to the spot which was house of Laxman Rajkondwar (A-2 who is discharged by Hon'ble High Court). He found that two persons (A-6 Himanshu and A-7

Naresh) were dead at the spot and A-9 Yogesh, A-8 Maroti, A-10 Gururaj and A-1 Rahul were injured in the incident. PW-22 Ravindra lodged a first information report (Exh.514) mentioning therein that the incident took place due to explosion of fire crackers which were negligently kept in the house. The relevant statements in the FIR read as 'नरेश याचा फटाक्याचा व्यवसाय असल्याने दिवाण खाली फटाके ठेवलेले होते व आज रोजी १.३० वाजताचे सुमारास मोठा स्फोट झाला... .. तरी ईसम नामे लक्ष्मण गुंडय्या व मयत नरेश लक्ष्मण राजकोंडवार यांनी दिवाळी नंतर उरलेले फटाके घरामध्ये निष्काळजीपणाने ठेवले व हयगयीने ठेवले व योग्य ती काळजी न घेतल्यामुळे स्फोट होवून'

b) During the search of the house, an IED i.e. live improvised explosive device (pipe bomb), and 10 live cartridges having description 7.65 K.F. were recovered. The Bomb was defused with assistance of Bomb Detection and Defusal Squad (BDDS). During the search of the house the documents relating to Vishwa Hindu Parishad (hereinafter 'VHP') and Rastriya Swayamsevak Sangh (hereinafter 'RSS') were also recovered. Splinters were taken out from the two dead bodies and from the body parts of injured accused persons.

c) During further investigation the recovered articles were sent for forensic examination. Brain mapping and Narco Analysis Tests of A-3 Sanjay, A-8 Maroti, A-9 Yogesh and A-10 Gururaj were conducted at Forensic Laboratory, Bangalore. Another investigating officer PW-34 Ramesh, the then Police Inspector attached to Bhagyanagar Police Station, conducted house search of A-2 Laxman and recovered 47 articles including documents of RSS, Bajrang Dal.

He arrested 12 accused persons, recorded statements of witnesses, obtained medico legal certificates from the hospitals, collected reports from Forensic Science Laboratories. House search of A-6 Himanshu was also conducted and one live cartridge of 7.65 mm was recovered from his house with literature of RSS, VHP and Bajrang Dal. Subsequent investigation was done by ATS and CBI officers. Supplementary charge-sheets came to be filed. CBI added one more accused and dropped name of one of the accused person i.e. A-2 Laxman.

5. In the charge-sheet it is alleged that the accused persons entered into conspiracy to prepare bombs for destruction, conduct explosions, create rift in the different castes. It is further alleged that A-1 Rahul, A-6 Himanshu, A-7 Naresh, A-8 Maroti, A-9 Yogesh, A-10 Gururaj, A-3 Sanjay, A-4 Ramdas and A-2 Laxman were workers of RSS and Bajrang Dal (Hindu Extremist organizations), due to frequent terrorist attacks on Hindus from Muslim terrorist organizations the accused persons became turbulent and decided to unite the young persons and create affection for Hinduism, they used to celebrate various Hindu festivals, they created hatred against Muslim community, they obtained training of preparing pipe bombs in Pune from the absconding accused Mithun Chakravarti @ Kakaji, A-6 Himanshu and A-8 Maroti had also taken training of 40 days from Bhosla Military School, Nagpur and they conducted bomb blast at Gausiya Masjid, Parbhani in the year 2003.

6. It is further alleged in the charge-sheet that A-2 Laxman and A-3 Naresh had knowledge of the potential destruction which the bombs can create but still they allowed the accused persons to

make bombs in their house, they stored fire crackers in their house illegally to dodge the police and law enforcing agencies. It is further alleged in the charge-sheet that the accused persons were found in possession of the pipe bomb without any license. The injured A-8 Maroti, A-9 Yogesh, A-10 Gururaj and A-1 Rahul got admitted in different hospitals and assigned different reasons for injuries on their bodies to mislead the authorities. They also provided false information to the investigating officer PW-22 Ravindra.

7. It is further alleged in the charge-sheet that A-8 Maroti had prepared a map of one mosque, they had conducted recce of the mosque in Aurangabad, A-6 Himanshu and he were planning a bomb blast at the mosque and create breach of peace in society. It is also alleged in the charge-sheet that A-4 Ramdas allowed A-1 Rahul to stay in his house after the blast on 06.04.2006, A-3 Sanjay and A-11 Milind concealed the said accused persons after they were injured and got them admitted in different hospitals. A-5 Umesh sent A-1 Rahul to a hospital at Pusad to mislead the police and did not inform about him which was his duty. It can also be seen from the charge-sheet that during the house search of A-6 Himanshu one 7.65 mm live cartridge was recovered. Lastly, it is alleged in the charge-sheet that the accused persons took part in unlawful activities, abetted and incited the commission of such unlawful activities, they entered into conspiracy to commit Terrorist Act, they were possessing explosives under suspicious circumstances and they committed culpable homicide not amounting to murder of A-6 Himanshu and A-7 Naresh.

8. Defence case as it appears from charge, arguments, trend of cross-examination of the prosecution witnesses and examination of the accused persons under section 313 (1)(b) of the Code of Criminal Procedure, 1973 is denial of prosecution case and false implication to portray Hindu Terrorism.

9. From rival contentions of the respective parties, following points have cropped up for determination. Findings on those points for the reasons mentioned thereunder are as follows-

<i>Sr. No.</i>	<i>POINTS</i>	<i>FINDINGS</i>
1.	Whether the prosecution proves that on 06.04.2006 at about 1.50 a.m. at the residential house of A-2 Laxman at Patbandhare Nagar, Nanded, A-1 Rahul, A-8 Maroti, A-9 Yogesh, A-10 Gururaj conspired to cause an explosion of a nature likely to endanger life and cause serious injury to property by explosive substance i.e. pipe bombs and thereby committed offence punishable under section 4(b) of the Explosive Substances Act, 1908?	No
2.	Whether the prosecution proves that on 06.04.2006 at about 1.50 a.m. at the residential house of A-2 Laxman at Patbandhare Nagar, Nanded, A-1 Rahul, A-8 Maroti, A-9 Yogesh, A-10 Gururaj had been in possession of explosive substance i.e. pipe bombs with intent by means thereof to endanger life in India and thereby committed offence punishable under section 5 of the Explosive Substances Act, 1908?	No
3.	Whether the prosecution proves that on 06.04.2006 at about 1.50 a.m. at the residential house of A-2 Laxman at	No

	Patbandhare Nagar, Nanded, A-1 Rahul, A-8 Maroti, A-9 Yogesh, A-10 Gururaj, in prosecution of their common object, did keep explosive substance in the residential premises with the knowledge that it is likely to cause death of A-6 Himanshu and A-7 Naresh and caused their death and thereby committed offence punishable under section 304 r.w.s. 149 of I.P.C.?	
4.	Whether the prosecution proves that on 06.04.2006 at about 1.50 a.m. at the residential house of A-2 Laxman at Patbandhare Nagar, Nanded, A-1 Rahul, A-8 Maroti, A-9 Yogesh, A-10 Gururaj, in prosecution of their common object, omitted to take such order with explosive substance i.e. pipe bombs in their possession to guard any probable danger to human life from that substance and thereby committed offence punishable under section 286 r.w.s. 149 of I.P.C.?	No
5.	Whether the prosecution proves that on 06.04.2006 at about 1.50 a.m. at the residential house of A-2 Laxman at Patbandhare Nagar, Nanded, A-1 Rahul, A-8 Maroti, A-9 Yogesh, A-10 Gururaj, in prosecution of their common object, negligently kept explosive substances in the residential house and caused grievous hurt to A-1 Rahul, A-8 Maroti, A-9 Yogesh and A-10 Gururaj and thereby committed offence punishable under section 338 r.w.s. 149 of I.P.C.?	No
6.	Whether the prosecution proves that on 06.04.2006 at about 1.50 a.m. at the residential house of A-2 Laxman at Patbandhare Nagar, Nanded, A-1 Rahul, A-8 Maroti, A-9 Yogesh, A-10 Gururaj, were found in possession of 10 cartridges of 7.65 mm.	No

	without license and thereby committed offence punishable under section 3 r.w.s. 25 (1B)(a) of Arms Act?	
7.	Whether the prosecution proves that before 06.04.2006 A-1 Rahul, A-8 Maroti, A-9 Yogesh, A-10 Gururaj and A-13 Rakesh entered into conspiracy, advocated, abetted, advised and incited the commission of Terrorist Acts and other Acts preparatory to the commission of Terrorist Act by receiving training to prepare explosive substances, bombs unlawfully and thereby committed offence punishable under section 18 of the UAPA, Section 109 and section 120(B) of IPC?	No
8.	Whether the prosecution proves that in and after July 2003 A-1 Rahul, A-8 Maroti, A-9 Yogesh, A-10 Gururaj and A-13 Rakesh were in unauthorized possession of bombs, dynamites, hazardous explosive substances and thereby committed offence punishable under section 23 of the UAPA,?	No
9.	Whether the prosecution proves that after 06.04.2006 A-3 Sanjay, A-4 Ramdas, A-5 Umesh, A-11 Milind and A-12 Mangesh, having reason to believe commission of offence, concealed A-1 Rahul, A-8 Maroti, A-9 Yogesh and A-10 Gururaj knowing that they were the offenders and thereby committed offence punishable under section 212 of IPC?	No
10.	Whether the prosecution proves that after 06.04.2006 A-3 Sanjay, A-4 Ramdas, A-5 Umesh, A-11 Milind and A-12 Mangesh, in prosecution of their common object, having reason to believe commission of offence of culpable homicide not amounting to murder, caused disappearance of evidence with intention of screening the offenders A-1 Rahul, A-8 Maroti, A-9 Yogesh and A-10 Gururaj and thereby committed offence punishable under section 201 r.w.s. 149 of IPC?	No

11.	What order?	Accused persons are acquitted
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REASONS

AS TO POINT NOS. 1 TO 8 :-

10. All the points are taken up for simultaneous discussion as they are inextricably interwoven.

11. Learned Special Public Prosecutor, after giving a brief description of the prosecution case, argues that the prosecution witnesses have proved the case by adducing consistent, cogent and reliable evidence, they have corroborated the prosecution case, their evidence is free from any blemish, minor contradictions amongst their versions need not be given much importance, the facts of recovery of live IED from the possession of the accused persons, recovery of splinters from their body parts, their presence at the spot, their conspiracy to commit blasts at various religious places are established by the prosecution and therefore the accused persons are liable to be punished.

12. Learned counsels appearing for the accused persons have articulated their arguments by saying that the instant matter is a classic case of false implication to portray Hindu Terrorism. Learned counsel appearing on behalf of A-1 to A-5 has further argued that the recovery of pipe bomb from the house of A-2 Laxman is highly suspicious, there is no material to connect the accused persons with alleged training of bomb making, the evidence of police witnesses is

unreliable, none of the independent witnesses have supported the prosecution story and therefore the accused persons be acquitted.

13. With the above background, the rival contentions are considered in the light of evidence adduced by the prosecution.

14. PW-1 Pramod, a panch witness to inquest panchnamas (Exh.207 and 208) of the dead bodies of A-6 Himanshu and A-7 Naresh, has proved his signatures but has categorically denied that the contents of the panchnamas are correct. He clearly mentions that he had seen only few injuries on the dead bodies. Point No. 15 of the panchnamas disclose that the injuries on the dead bodies were due to explosion of fire crackers and it reads in Marathi as under-

‘फटाक्याच्या स्फोटामुळे शरीरावर गंभीर जखमा होवून मृत्यू झाला असावा’

15. PW-12 Dr. Deepak is another panch who was present at the time of house search of the A-6 Himanshu. In his examination-in-chief he has identified his signature on the panchnama (Exh.494) but he categorically states that all the 47 articles mentioned in the said panchnama were not shown to him. In his cross-examination he clarifies that all the articles were collected by the police before his reaching to the said house and thereafter his signature was obtained on the pre-written panchnama. He further admits that no cartridge of 7.65 mm was shown to him by the police and the seized articles were not sealed in his presence. It means the independent witness is not supporting the story of seizure of cartridge from the house of A-6 Himanshu.

16. PW-20 Shankar, a panch witness, was called during defusal of the live bomb on 08.04.2006. In his examination-in-chief he narrates that he was called at firing point, Vishnupuri along with other panch Madhav Pavale, a gray coloured rexine bag was kept at the said place, police had recovered one bag, one shirt and pipe along with 4 battery cells of Nippon company in one switch and one black colour chip and he has ratified the contents and signature on the panchnama (Exh.509). In his cross-examination he admits that the panchnama was ended at 3.30 to 4.00 p.m. which is varying from the contents of panchnama which shows that it was completed at 14.00 hours (2.00 p.m.). He further admits in his cross-examination that police had seized nut-bolts and not the couplings in his presence and there is no mention of seizure in the panchnama. He further admits that the bomb was brought at about 11.45 a.m. on 08.04.2006. Most importantly he admits that the rexine bag did not have any sign of catching fire and label having his signature was not pasted on the seized pipe.

17. PW-23 Devidas, has identified his signature as a panch on the panchnama (Exh.518) of house search of A-10 Gururaj on 07.04.2006 but he has denied knowledge of contents thereof.

18. PW-24 Amar has also identified his signature on panchnama (Exh.520) prepared at the hospital of PW-3 Dr. Pankaj and ratified contents thereof but denied that he has seen the articles kept in the bottle (Article 'N'). However he has not mentioned any date or time of preparation of such panchnama.

19. PW-25 Vishwas, a driver, has categorically denied seizure of any articles i.e. Album and diaries from his car owner Sanadkumar Bhat.

20. PW-27 Machindra, another panch, has also not supported the fact of seizure of Bajaj Motorcycle, obtaining blood on the said motorcycle on 09.04.2006. He has only identified his signature on the panchnama (Exh.527).

21. PW-28 Madhav, has also not supported the prosecution case that police constable Manjur Husen had brought one splinter and it was seized in his presence. He has only identified his signature on the panchnama (Exh.529).

22. All the above 8 witnesses who are panchas and were called by the police to act as independent witnesses have not supported the prosecution case rendering it weak.

23. PW-11 Arvind has deposed about the incident dated 06.04.2006. According to him he received phone call of A-5 Umesh at about 11.30 p.m. to 11.45 p.m. to bring his ambulance immediately and he carried A-1 Rahul to Pusad on his ambulance. He categorically states that the ambulance cost was paid by one Govind Puranik. According to him the brother of A-1 Rahul had thrown blood stained clothes in Asna River during the travel to Pusad. In the court he could not identify A-12 Mangesh (A-1 Rahul's brother) and could not even tell whether A-1 Rahul was present in court or not. At this juncture it is to be noted that the blast took place in the intervening night between 05.04.2006 and 06.04.2006

in the wee hours at about 1.30 a.m. and the evidence of this witness suggesting that he was called at about 11.30 p.m. at night are contrary to each other. In cross-examination he changes the above two versions and states that he started from Nanded at about 12.30 a.m. mid night. In his cross-examination he has clearly admitted that his story 'A-5 Umesh called him, then he carried his ambulance near one house where he met Govind Puranik and injured person and thereafter he drove the ambulance towards Pusad, the brother of A-1 Rahul threw blood stained clothes in the river, he read in the news paper and thereafter went to Bhagyanagar Police Station' was not told by him to the police. Most importantly he states that police did not record his statement as per his say.

24. PW-13 Amol has come up before the court to say that he was knowing A-6 Himanshu from childhood. He informs the court that initially A-6 Himanshu was working for RSS but he stopped the said work. He also informs the court that on 06.04.2006 he came to know from the family members of A-6 Himanshu that he died in an explosion which took place in the house of A-7 Naresh. Importantly he states in cross-examination that he stated before police that A-7 Naresh was possessing license for fire crackers and he was selling the same. From the evidence of this witness it emerges that A-7 Naresh was holding license for sale of fire crackers.

25. PW-21 Mukesh witnessed the huge sound of blast in the neighbourhood from the house of A-7 Naresh but he did not enter into the said house. He has categorically denied suggestions that PW-22 Ravindra (I.O.) had prepared panchnamas in the said house in his presence on 07.04.2006 and 08.04.2006 and recovered 63 Articles.

He has merely identified his signatures on the panchnamas (Exh.511 and 512) but totally denied his knowledge about the call details of the mobile phones.

26. PW-30 Jagannath, a retired Assistant Police Inspector and resident of Patbandhare Nagar, heard the huge explosion from the house of A-7 Naresh and he saw the latter in an injured and unconscious condition. He informs the court that initially the neighbours and subsequently the fire brigade had doused the fire. His evidence goes to show that the fire was stopped by pouring a lot of water and is in line with the evidence of PW-22 Ravindra, the investigating officer. In his cross-examination he has categorically denied his statement before police that he had seen one person coming out of the house and running away on motorcycle. In his further cross-examination he says that from the outer door of the house he has seen a couch in burnt condition but did not see anything under the said couch.

27. PW-38 Avinash, the cousin brother of A-1 Rahul, deposes that on 07.04.2006 he received phone call of the latter and carried him to Dr. Basatwar's Hospital on ambulance. Even though there is some confusion about the date mentioned by this witness, it need not be given much importance in the backdrop that his evidence is recorded after 18 years of the incident dated 06.04.2006.

28. PW-3 Dr. Pankaj Basatwar has narrated about examination and medical treatment of A-1 Rahul by him on 07.04.2006. He found compound fracture over supra condylor left humerus and superficial burns over face, leg, neck and arm, he

removed foreign body from A-1 Rahul's body parts. He narrates that he had given medical papers and foreign body to one Pande. In his cross-examination he expressed his inability to identify the said foreign body. Moreover his deposition is silent about the details of the said foreign body as to whether it was metal or anything else.

29. PW-5 Dr. Manish examined A-9 Yogesh in his Yashoda Hospital. He found multiple injuries on his body and gave emergency treatment, he removed foreign body from the said accused and handed them over to Bhagyanagar Police Station. He states that as per history taken, those injuries were fire cracker injuries, he was of the opinion that said injuries were not caused by fire crackers but he could not conclude about the exact cause. He handed over the foreign bodies to Bhagyanagar Police Station on 17.04.2006 i.e. after around 11 days of the alleged incident. Again, he handed over 3 foreign bodies to the police on 26.04.2006. In his cross-examination he admits that his statement was never recorded by police and there were no particular identification marks on the bottle in which two foreign bodies were kept (Article G). He further admits that he can not say as to whether the pieces of foreign bodies at article G are removed or not removed from the body of the patient.

30. PW-6 Dr. Manish examined A-10 Gururaj at High-Tech Hospital. In his deposition he states that he found grade-III open fracture to Tibia and fibula upper 1/3rd left leg with two foreign bodies, multiple penetrating wounds on all over the body and grade-III open fracture right clavicle with foreign body of the said accused. In his examination-in-chief itself he expressed his inability to identify

the said foreign bodies and also narrated that the said articles were not sealed while collecting them from him.

31. PW-7 Dr. Arun deposes that on 06.04.2006 he had examined A-8 Maroti in Lotus Hospital and found nine injuries on his body. He further narrates that he also found foreign bodies in A-8 Maroti's body parts on conducting X-ray and handed over them to police. He also could not identify the said foreign bodies. In his cross-examination he admits that his statement was not recorded by police and he personally did not treat the said patient.

32. PW-9 Dr. Deelip conducted postmortem examination of A-6 Himanshu and A-7 Naresh on 06.04.2006. According to him both these persons died due to Cardio respiratory arrest due to hemorrhagic shock due to right hemo thorax, due to multiple perforating injuries due to blast. He issued postmortem reports (Exh.393 and 397). In his cross-examination he admits that in his postmortem reports he has not mentioned description of the foreign bodies and whether the clothes of the said deceased persons were burnt or not. In further cross-examination he admits that in perforating injury there is exit wound also and such injury makes hole in the body while in penetrating wound the object remains in the same tissue of the body. In further cross-examination he states that if he had found any explosive substance in the dead bodies, he would have handed them over to the police. He also admits in cross-examination that the injuries on the dead bodies were possible by bursting of fire crackers, he did not note any identification marks of the metal pieces which were removed from the dead body of A-6 Himanshu.

33. PW-10 Gajanan, an employee of Yashoda Hospital, has informed the court that on 27.04.2006 Dr. Manish Deshpande performed surgery of A-9 Yogesh and removed some pieces of metal which he handed over to Bhagyanagar Police Station. He has ratified contents of panchnama of the said act (Exh.405). However his deposition that the operation was performed on 27.04.2006 is not corroborated by PW-5 Dr. Manish as the latter is saying before the court that he had handed over 3 foreign bodies to Bhagyanagar Police Station on 26.04.2006. These aspects also need consideration.

34. PW-8 Prabhakar, an employee of BDDS Aurangabad, has deposed that his job was to detect, dispose and defuse the explosive device. According to him PI Borade, an incharge of Aurangabad BDDS Squad, informed him on 07.04.2006 about a bomb at Patbandhare colony, Nanded and he was to travel to Nanded for its disposal. He further narrates that on 08.04.2006 at about 3.30 a.m. he left from Aurangabad along with one sniffer dog. He has deposed that Superintendent of Police, Nanded informed him that the terrorist had called him and threatened to conduct blast of the said bomb if the BDDS team would go to defuse it, however he assured the said officer that he would defuse the IED from remote place. According to him there was one pipe of length 6 inches, diameter 2 to 3 inches and there was coupling/lid on both sides of the pipe, there was a hole on one side from where the wires were inserted and were connected to battery cells. He also informs that there was antenna to the iron pipe to receive remote waives. He has further stated that there was explosive inside the pipe and it was a country bomb, the dog handler with assistance of sniffer dog detected

explosive inside the said pipe and he defused the bomb. He further narrates that after removing the lid of the pipe they found yellow substance like sulfur and explosive used in the cracker, the pipe was handed over to Bhagyanagar Police Station, he submitted report (Exh.387). In his cross-examination he admits that his statement was not recorded by police and he did not mention about the mechanism used in the IED and fire crackers in his report. He also did not mention about the threats to the Superintendent of Police, Nanded in his report.

35. PW-14 Jomakhan, the then PSI attached to Bhagyanagar Police Station, was on duty at Police Station on 06.04.2006. He narrates that upon receipt of information about the blast at Patbandhare Nagar he visited the said spot. According to him the 3 injured persons i.e. A-9 Yogesh, A-8 Maroti and A-10 Gururaj were taken to hospital and he collected their clothes from the doctors and deposited the same at Bhagyanagar Police Station. He has ratified contents of panchnama of the same (Exh.468). From the evidence of this witness it emerges that all the three accused persons were hospitalized at one hospital which is not the case of other witnesses. Moreover, none of the medical officers PW-5 Dr. Manish Deshande, PW-6 Dr. Manish Katruwar and PW-7 Dr. Arun have deposed a single word that the clothes of the patients were handed over to police. Neither PW-10 Gajajan, the employee of Yashoda Hospital, has stated in his evidence that such clothes were handed over to the police. Therefore, there is variance in the evidence of above prosecution witnesses.

36. PW-15 Mohd. Manjur Husen, the then Police Officer attached to Bhagyanagar Police Station, deposes that he had collected one splinter from the doctor Ajay Bojalwar who had conducted operation on A-1 Rahul at Nanded Government Hospital and handed it over to Police Head Constable Inamdar who drew panchnama of the same. It is interesting to note that PW-28 Madhav, a panch of the above seizure, has not supported the prosecution case. Moreover the story narrated by PW-11 Arvind depicts that he had taken A-1 Rahul to Pusad for treatment on his ambulance on 06.04.2006. Therefore, it was impossible that on the same day the said accused A-1 Rahul was treated at Govt. Hospital, Nanded and one splinter was taken out from his body and was handed over to PW-15 Mohd. Manjur Husen. Therefore, the story of such recovery itself becomes doubtful.

37. PW-16 Shivdas, another police constable attached to Bhagyanagar Police Station visited Lotus Hospital and High-Tech Hospital and collected bottles containing metal pieces which were removed from the body parts of A-8 Maroti and A-10 Gururaj. According to him he handed over the said bottles to investigating officer PW-34 Ramesh Bhurewar on 12.04.2006. He has also ratified contents of the panchnama (Exh.479). After carefully going through the said panchnama (Exh.479), it does not bare signature of PW-16 Shivdas. In a routine course when anything is recovered from any person and panchnama is drawn, his signature is obtained on panchnama. Absence of PW-16 Shivdas's signature on the panchnama creates doubt about the evidence of this witness.

38. PW-17 Rameshwar, a police constable attached to Bhagyanagar Police Station, was present when the postmortem of A-6 Himanshu and A-7 Naresh was conducted. According to him after performing the postmortem, the metal pieces recovered from the dead bodies and clothes of the said persons were handed over to him by the medical officer and the same were deposited in Police station and at that time panchnama (Exh.484) was drawn. His cross-examination reveals that he was not knowing the description of metal pieces.

39. PW-18 Sy. Mazrulla, a police staff, deposes that on 18.04.2006 Dr. Bojalwar handed over one small bottle containing splinters recovered from the body of A-1 Rahul Pande and he deposited the same at Bhagyanagar Police Station to API Surwase and at that time panchnama (Exh.487) was drawn. It is surprising to note that PW-15 Mohd. Manjur Husen another police constable also obtained one splinter from Dr. Ajay Bojalwar which was recovered from the body of A-1 Rahul. Therefore, the evidence of Dr. Ajay Bojalwar should have been recorded by the prosecution to explain the number of operations / surgeries conducted on A-1 Rahul and number of splinters recovered from his body. In absence of any such evidence, the depositions of these two witnesses appear to be confusing.

40. PW-19 Bapu, the then police inspector attached to BDDS Nanded unit, received information on his mobile phone at about 2.40 a.m. on 06.04.2006 about the blast at Patbandhare Nagar. He deposes that soon after receiving the information he along with PSI Kulkarni and other staff, dog handler and sniffer dog 'Soni' reached

the spot, PW-22 Ravindra was already there with his staff, they took search at the spot with the light of torches. He deposes that one couch was destroyed, the mattresses were burnt and scattered, there was blood all over the room. In his evidence, he further narrates that in the morning after sunrise PW-22 Ravindra and other staff of BDDS started search of the spot and recovered one rexine bag of blackish colour containing one pipe bomb and it was detected by the sniffer dog. According to him they carried the said bomb to firing butt and it was kept in one pit. He further deposes that after defusal of the bomb it was handed over to them, then he removed the nut by using spanner and took out detonator and powder from the pipe and he submitted report (Exh.503). Regarding the same incident PW-8 Prabhakar, BDDS staff, has stated that the BDDS removed yellow substance like sulfur and explosive from the pipe and then handed over that pipe to Bhagyanagar Police Station with above material. Therefore there is difference in the story narrated by PW-8 Prabhakar and this witness PW-19 Bapu. In cross-examination PW-19 Bapu admits that he had taken custody of the black coloured bag on 06.04.2006 in the morning but no panchnama was drawn at that time, the bomb was taken to firing butt on the same day. All these admissions are important because other police officers have narrated totally different versions and the same will be brought forth while discussing the evidence of those police officers.

41. PW-26 Sudam, a police constable attached to Bhagyanagar Police Station, deposes that on 15.04.2006 investigating officer PW-34 Ramesh had handed over 32 sealed packets to him for carrying the same to Forensic Science Laboratory,

Aurangabad along with covering letter (Exh.525). In his cross-examination he admits that he received the said packets on 16.04.2006 and he did not inform the superior about whereabouts of those packets from 16.04.2006 to 17.04.2006. He further admits that he never delivered 33 packets in the laboratory.

42. PW-32 Rajendra, the then Police officer attached to Local Crime Branch Nanded, deposes that upon instructions of the investigating officer PW-34 Ramesh he conducted house search of A-8 Maroti and recovered many diaries, one photo album and prepared panchnama (Exh.544). He further deposes that on 10.04.2006 he conducted house search of A-4 Ramdas and recovered one Gunny bag and blanket having stains like blood and prepared panchnama (Exh.545). ~~There is no forensic report about the said articles and there is nothing on record to connect the above articles recovered by this witness with the alleged offences.~~

43. PW-33 Prashant, the then Police Officer attached to Local Crime Branch, Nanded, visited the hospital of PW-3 Dr. Pankaj Basatwar and collected two splinters in one bottle by preparing panchnama (Exh.520). He further deposes that on 10.04.2006 he conducted house search of one Santosh Paralikar and found one note book having phone numbers of A-6 Himanshu and Ganesh Rajkondwar, one weapon (Kukri) and he prepared the panchnama (Exh.547). It is material to note that said Santosh Paralikar is not an accused in this matter, there is no allegation against him that the said weapon was used in commission of any of the offences. Therefore, the evidence of PW-33 Prashant to the above extent is of no use to the

prosecution. Regarding collection of splinters his evidence does not find support from PW-3 Dr. Pankaj.

44. PW-35 Virbhadra, the then police officer attached to Bhagyanagar Police Station, deposes that he collected a glass bottle containing metal pieces which was given by police constable B.No. 1539 H.D. Deshpande to him. He has not taken the name of PW-18 Sy. Mazrulla. But the latter witness has come up with a case that on 18.04.2006 a bottle containing metal pieces was given to him by Dr. Bojalwar and he handed over the same to PW-35 Virbhadra. Therefore there is significant difference in the evidence of these two witnesses.

45. PW-42 Shrikant, the then police inspector attached to Bhagyanagar Police Station, deposes that on 06.04.2006 at about 6.30 to 7.00 a.m. he received information about the blast, on that day he recorded statements of two witnesses PW-21 Mukesh and one witness Satish Kanegaonkar and he sent the cartridges, detonator, electronic circuit to forensic Science laboratory, Mumbai with his covering letter (Exh.586). In his cross-examination he admits that in the station diary extract of Bhagyanagar Police Station (Exh.587) there is mention that the offence was registered at 5.00 a.m. and the same entry may be false. In his further cross-examination he admits that he does not know whereabouts of the aforesaid articles from 03.05.3006 to 08.05.2006. He has given vital admission in cross-examination that on 06.04.2006 he was present at the spot from 10.00 to 10.30 a.m., he took search of all the three rooms on ground floor but did not find any objectionable article. Evidence of this

witness runs contrary to the prosecution case that live IED was detected at the spot on 06.04.2006.

46. PW-43 Vijaykumar, the then police officer attached to BDDS Nanded, deposes that on 06.04.2006 after receiving information about the blast he along with other police officers reached the spot alongwith sniffer dog "Soni" , when he reached the spot there was darkness and therefore the search was resumed in the morning at 7.00 a.m., sniffer dog was in action and he had found fire crackers at the spot. He further deposes that at about 4.00 p.m. a live bomb was detected by staff of Bhagyanagar police station and it was defused. In his cross-examination he clearly admits that from 7.00 a.m. the sniffer dog had thoroughly checked each room in the house and nothing objectionable was found. He further informs that he received information about the live bomb from PW-34 Ramesh Bhurewar. From the evidence of this witness it comes on record that during the search of the spot soon after the blast nothing objectionable was recovered and the search was done by taking assistance of the sniffer dog. Conjoint reading of the evidence of this witness and PW-42 Shrikant reveals that there was no live bomb at the spot when initial search was taken on 06.04.2006.

47. PW-44 Pravin, the then officer attached to local crime branch, conducted search of the shop "Shrushti Gift and Art Gallery" at Shrinagar, Nanded. According to him a diary containing the reference of payment to A-6 Himanshu, travel expenses of A-3 Sanjay and one Mahalkar and one map of a mosque was found during the search. He further deposes that a daily news paper Deshonnatti with

article "हिंदू धर्म संपुष्टात येईल" was also found during the search. In his cross-examination he admits that he did not verify the documents about ownership of the shop, he did not suggest the investigating officer to verify the handwriting on the dairy. From the evidence of this witness, nothing is brought on record to establish terror link between the aforesaid documents and the accused persons.

48. PW-46 Raman Tyagi, the then officer attached to the CBI special squad for the investigation of C.R. No. 99/2006, narrates about the steps taken by him to collect the documents, to record the statements. He states that he recorded statements of witnesses PW-39 Milind, PW-40 Sudhanwa, PW-41 Rajendra as per their say and he sent the report seeking sanction from Government of Maharashtra. He filed two supplementary charge-sheets and found that A-12 Mangesh was also involved in the offences. In his cross-examination he admits that he did not conduct any investigation about the material purchased for making the bomb as it was done by local police and ATS. At this juncture, it must be noted that none of the witnesses from Bhagyanagar Police station and ATS have come up before the court to say about such investigation being carried out by them to find out the source of the material used for making bomb. He further admits in cross-examination that during his investigation nothing was revealed to suggest that the accused persons had previous knowledge about making of the bomb or keeping the same at the spot, the accused persons were meeting each other, they had obtained training of making the bombs, they were found in possession of any literature or document about bomb making. He further admits that the only evidence against A-14 Rakesh is the

statements of above three witnesses PW-39 Milind, PW-40 Sudhanwa and PW-41 Rajendra. Their evidence will be discussed in subsequent paragraphs. Importantly, PW-46 Raman admits that the accused persons were not members of any banned organization. He has innovated a story that a live hand grenade was recovered during investigation. This is not the prosecution case. There is no reference to such hand grenade in the evidence of any other prosecution witness. This witness also does not know where the said hand grenade was sent by him. He also does not know whether consent of A-8 Maroti, A-3 Sanjay, A-9 Yogesh, A-10 Gururaj was obtained before conducting their deception detection tests. The evidence of this witness is also sketchy about the investigation done by him.

49. PW-47 Deven Pardeshi, the then Dy.S.P. in CBI S.T.F. branch, was assisting PW-46 Raman during the investigation. He had collected the rexine bag, clothes, splinters, shell, detonator and explosive powder and prepared panchnamas (Exh.606 & Exh. 607). He sent some of them to forensic laboratory, Santacruz for analysis with his covering letter (Exh.608). His cross-examination reveals that he was unable to remember the timing of the panchnamas. The evidence of this witness does not throw light on any new aspect which is useful to the prosecution case.

50. PW-22 Ravindra, the then API attached to Bhagyanagar Police Station, was the first officer to reach the spot where the explosion took place. In his examination in chief he narrates that he gave F.I.R. (Exh.514), he prepared spot panchnama which was continued for three days i.e. 06.04.2006, 07.04.2006 and 08.04.2006. Upon minute examination of his evidence, it transpires

that when he visited the spot he found blood everywhere, the mattresses were torn, the television set was broken, the Sofaset was broken, the windows, the doors and one couch were also broken and the entire house was engulfed in fire. He further states that he found broken glass pieces, three motorcycles, white dust on one of the motorcycles, small pieces of iron pipe, splinters, one silver colour toy car with remote, its remote control, one white broken detonator on 06.04.2006. He further states that on 07.04.2006 when the search was resumed he recovered leather wallet of A-6 Himanshu, rexine wallet of A-9 Yogesh, the books and documents relating to VHP and RSS, one spanner and diaries. He further states that on 08.04.2006 he recovered one carry bag containing ten cartridges, one white – yellow solid substance of 5 kg weight, three wooden boxes of fire crackers, 26 card board boxes of fire crackers. In his subsequent examination in chief he states on 06.04.2006 he had recovered one pipe bomb in black rexine bag below the couch and he had prepared the panchnama (Exh.511). In his cross-examination he admits that even though there was sufficient light on 06.04.2006 till 6.00 p.m., the panchnama was not continued till that time, he did not bring his weekly diary, he handed over the alleged bomb to PW-19 Bapu. However the latter witness has not supported this story of PW-22 because according to him the alleged bomb was detected by PW-22 Ravindra and he did not remember whether the said bag was handed over to him or not. In further cross-examination PW-22 Ravindra narrates that when he reached the spot the fire brigade had doused the fire and there was water logging inside the house due to which the floor was wet. He gives important admission that the bag was neither wet nor in burnt condition when it was recovered. At the cost

of repetition, it must be remembered that the explosion was of such magnitude that it blew away the windows and doors of the house and the house was engulfed in fire. In that backdrop, the recovery of rexine bag with no trace of water or burning itself is doubtful.

51. PW-34 Ramesh Bhurewar, the then police inspector attached to Bhagynagar Police station, has informed the court that after investigation was given to him, he visited the house of A-2 Laxman and recovered documents relating to RSS, Bajarang Dal, license of A-6 Himanshu on 07.04.2006. It is interesting to note that PW-22 admits in his cross-examination that from 06.04.2006 to 08.04.2006 no other police officer had conducted search or recovered anything from the spot. This admission runs contrary to the evidence of PW-34 Ramesh and renders the recovery on 07.04.2006 by him doubtful. PW-34 Ramesh further deposes that on 08.04.2006 a live bomb was detected at the spot and it was defused at firing butt. Contrary to the prosecution case, the witness states that the said bomb was found in a box but again changes his version and says that it was found is rexine bag. According to him there were two shirts in the said rexine bag. In his cross-examination he admits that he was investigating officer in Parbhani bomb blast case for few days and he could not remember whether there was recovery of 7.65 mm cartridges in that matter. His cross-examination about recovery of one cartridge from the house of A-6 Himanshu is quite revealing. He admits that in the entire panchnama he had mentioned the valuation of each article recovered during the search but at serial no. 38 a word "काडतुस" was added after listing the name and description of the article rexine bag and contents therein. It is

important to note that the officer took note of very small articles like invitation cards, training programs of RSS, letters and listed each article with detailed description but recovery of an objectionable cartridge is found insignificant place in the panchnama i.e. after writing the description of article at serial no.38. The value thereof is also not mentioned and it is in different handwriting with different ink. This is an important aspect which manifests that recovery of a cartridge from the house of A-6 Himanshu is fake and a case was created to display the role of A-6 Himanshu in the conspiracy.

52. In further cross-examination PW-34 Ramesh admits that vide the covering letter (Exh.525) he had sent orange colour powder to forensic laboratory, but the said document does not support his claim and it states that red colour powder was sent along with the said letter. He further admits that in the said letter at serial no. 16 there is mention of black colour powder of defused bomb but in the panchnama of bomb defusal (Exh.509) there is no reference of such black powder but there is reference of gray colour powder of fire cracker. Moreover said gray colour powder was not sent for forensic examination. In the said panchnama (Exh.509) this witness has mentioned "फटाक्यामधील ग्रे रंगाची दारु वजनी ६०० ग्राम अंदाजे". It is to be noted that this panchnama is of bomb defusal and mention of powder of the fire cracker therein is not in consonance with the prosecution theory. It is also important to note that even though the panchnama (Exh.509) depicted recovery of reddish orange colour powder from the pipe of the bomb, in the covering letter to forensic laboratory there is mere mention of red powder only. Therefore these aspects also reduce credibility of the prosecution case.

53. To prove that the accused persons are part of conspiracy, training was imparted to them to make country made bombs, the prosecution has examined PW-37 Sanatkumar, a retired Army officer. In his deposition he states that he did not get acquaintance with A-6 Himanshu at Gadhinglaj. His deposition only shows that one Milind Parande met him in the year 1999. He has categorically denied that he had given training of using sticks to girls on the say of said Milind Parande. He has categorically denied suggestions of special public prosecutor that he met A-6 Himanshu at Gadhingalaj.

54. PW-36 Janardhan was a member of Bajrang Dal in the year 1995. In his deposition he has merely shown his acquaintance with A-7 Naresh, A-8 Maroti and others but he denied that A-6 Himanshu had undergone any training of bomb making. His cross-examination by Ld. Special Public Prosecutor does not reveal anything which supports the prosecution story that A-6 Himanshu was Hindu extremist and he used to give speeches against Muslim community. In cross-examination by Ld. Counsel for the accused persons he admits about his knowledge that A-7 Naresh was doing business of fire crackers. So, the evidence of above witness and PW-13 Amol support the defence that mere fire crackers were stored in the house.

55. PW-37 Atul, a resident of Aurangabad in 2006, deposes in the form of denials of the prosecution story that on the next day of 03.04.2006 he met Shridhar Patki, Ajay Baviskar, Umesh Moreshavar, Sudhanshu Panse and A-6 Naresh near Baba Petrol Pump, Aurangabad and he had any meeting with A-7 Naresh on

03.04.2006. His cross-examination by Ld. Special P.P. does not reveal anything which supports prosecution case.

56. PW-39 Milind, PW-40 Sudhanwa and PW-41 Rajendra are residents of Pune. They are examined by the prosecution to support the story that somewhere in July-August 2003 they had been to Pabe Ghat along with A-13 Rakesh (their friend) where a demo of bomb explosion was conducted by one Kakaji / professor Deo with 5 to 7 young persons. It is interesting to note that these witnesses were allegedly called by A-13 Rakesh only to see the demo of the explosion. These three witnesses never accompanied with the persons who caused explosion on the top of the hill. They were told to wait at the foothill and therefore they could not see the explosion being carried out but they could here the huge sound of explosion. However PW-39 Milind, PW-40 Sudhanwa and PW-41 Rajendra have categorically denied that they met A-13 Rakesh in June 2006. They have denied that the young boys who had gone to the hilltop with Kakaji are the accused in this matter. If the demo of the bomb explosion was to be conducted in secrecy then there was no reason for A-13 Rakesh to call these witnesses to the spot without any additional work assigned to them. Moreover PW-41 Rajendra deposes that after the explosion the villagers started shouting. This shows that the explosion was noticed by not only the persons present there but by the villagers also. In that eventuality, the incident would have got reported to law enforcing agency or any government office. No such record is made available by the prosecution. It is also important to note that the alleged demo happened in the July-August 2003 and the explosion in the instant matter took place in

April 2006. The time gap of around three years in these two incidents speaks of no connection between them. Therefore the evidence of these three witnesses does not assist the prosecution in any manner to show complicity of the accused persons in the alleged conspiracy and training of bomb making.

57. Prosecution has examined PW-29 Chandrahas, retired assistant Director forensic science laboratory Aurangabad. He speaks of receipt of 33 sealed articles containing 26 sealed packets and 7 sealed in cloth wrappers and they were brought by one police constable B.No. 1967 (PW-26 Sudam). In his further examination in chief he narrates that the articles at Exh.16 and 17 contained black and red powders having potassium, aluminum, sulphur, potassium chlorate, arsenic trisulphite, ammonium nitrate. He submitted report of his examination (Exh.533). In his cross-examination he admits that he did not receive any pipe having nut-bolts on both sides, orange colour powder was not sent to him, the detonator was not having electric circuit, the detonator sent to him was broken. Most importantly he admits that if the detonator examined by him would have come in contact with heat or pressure was applied on it then the explosion was possible. At the cost of repetition, the explosion on 06.04.2006 was of such magnitude that it blew off the entire house and the fire broke out which engulfed the whole room in the house. In that backdrop, it is difficult to believe the pipe bomb present in the said house did not get sufficient heat to explode. This aspect also goes against the prosecution story of recovery live bomb at the spot after the explosion.

58. PW-29 Chandrahas has stated that he received total 33 packets but the carrier PW-26 Sudam has mentioned that he handed over only 32 packets to PW-29 Chandrahas. Moreover, PW-26 Sudam could not explain where the sealed muddemal was kept during the period from 16.04.2006 to 17.04.2006. Therefore his evidence is also of suspicious character.

59. PW-45 Dr. Sandeep, a chemical analyst at forensic science laboratory Santacruz, deposes that he received one live detonator and total 6 sealed envelopes. According to him the detonator was live therefore it was defused by BDDS and was brought back to the laboratory. He sent the reports (Exh.594 and 595). According to him he found nitrite and lead radicals in the detonator. In his cross examination he admits that he has not mentioned in his report that live detonator was received by him. He further admits that BDDS had submitted report of defusal of the detonator to his laboratory but no such report is produced by the prosecution. He also admits that in the covering letter (Exh.586) there is no mention of live detonator. Therefore the evidence of this witness is contrary to the contemporary documents of the prosecution.

60. PW-48 Dr. Malini, retired Assistant Director forensic science laboratory Bangalore, has deposed about polygraph test of A-3 Sanjay, A-8 Maroti, A-9 Yogesh and A-10 Gururaj. She also deposes about brain mapping examination of A-8 Maroti, A-9 Yogesh and A-10 Gururaj. She also conducted narco analysis examination, polygraph and brain mapping of A-1 Rahul. She submitted reports (Exh. 612, 613, 614, 615, 616, 617, 618). According to her all the aforesaid accused persons were not telling the truth, the signs of

deception were showing non-truthfulness, the brain mapping findings were indicative of possession of knowledge about the activities and were conforming their active participation in the crime. In her cross-examination she admits that free and fair consent of the said accused persons was necessary for conducting the aforesaid tests and such consent in writing was available in her office. In this context PW-46 Raman Tyagi, the investigating officer, has clearly stated that he had no knowledge of such consent being obtained from the accused persons. No documents indicating such consent are produced on record by the prosecution. In her further cross examination PW-48 Dr. Malini admits that she had not supplied copies of wave patterns of the tests and videos to ATS Maharashtra. Therefore in absence of any documentary evidence in support of her conclusions, no value can be given to her findings upon the Deception Detection Tests (DDT). It may be added that such DDTs stand as supplementary evidence and not substantive evidence.

61. PW-2 Dattatraya, the then Under Secretary (Home Department, Mantralaya, Mumbai), has been examined to support the case that the investigating agency obtained sanction for prosecution of the accused persons for offences punishable under sections 18 and 23 of the UAPA Act. It will be useful to reproduce text of said sections which reads are as under-

18 – Punishment for conspiracy, etc... who ever conspires or attempts to commit, or advocates, abates, advises or incites, directs or knowingly facilitate the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less

than 5 years but which may extend to imprisonment for life, and shall also liable to fine.

23- Enhanced penalties – (1) if any person with intent to aid any terrorist or a terrorist organization or a terrorist gang contravenes any provision of, or any rule made under the Explosive Act, 1884 or the Explosive Substances Act, 1908 or The Inflammable Substances Act, 1952 or The Arms Act, 1959, or is in unauthorized possession of any bomb, dynamite or hazardous explosive substance or other lethal weapon or substance capable of mass destruction or biological or chemical substance of warfare, he shall, notwithstanding anything contained in any of the aforesaid acts or rules made there under, be punishable with imprisonment for a term which shall not be less than 5 years but which may extend to imprisonment for life, and shall also liable to fine.

(2) any person who with intent to aid any terrorist or a terrorist organization or a terrorist gang, attempts to contravene or abates, or does any act preparatory to contravention of any provision of any law or rule specified in sub-section(1), shall be deemed to have contravened that provision under sub-section (1) and the provisions of that sub-section in relation to such person, have effect subject to the modification that the reference to “imprisonment for life” therein shall be construed as a reference to “imprisonment for 10 years”.

62. In view of section 45(1)(ii) of UAPA, in case of an offence under chapter IV previous sanction of Central Government or, as the case may be, the State Government is mandatory. Sub-section (2) provides for grant of such sanction only after considering the report of such authority appointed by the Central Government or, as the case may be, the State Government which shall make an independent review of the evidence gathered in the course of investigation and

make a recommendation within such time as may be prescribed to the Central Government or, as the case may be, the State Government.

63. PW-2 Dattatraya appears to be deposing in capacity of such authority appointed by the State Government who used to send his recommendation to Deputy Secretary and Secretary of Home Department, Mantralaya for grant of sanction. His examination in chief discloses that he perused all the documents submitted by CBI, applied his mind and arrived at the opinion to recommend sanction to prosecute the accused persons and thereafter submitted the proposal to Deputy Secretary. He further deposes that the Secretary of Home Department accorded sanction to prosecute the accused persons for offences punishable under section 18 and 23 of UAPA, after grant of such sanction the file came to him and he drafted the sanction order with Deputy Secretary and he signed the same (Exh.132). In his cross-examination he admits that there is no mention in his order (Exh.132) that Secretary and Deputy Secretary of Home Department gave sanction to prosecute the accused persons. He further admits that the Government has authorized Under Secretary to grant the sanction under UAPA but he cannot tell the date of such notification. He also admits that the sanction order (Exh.132) is for offences under UAPA only and not under the Explosive Substances Act, 1908. From the evidence of this witness, he appears to be an authority to make an independent review of the evidence gathered in the course of investigation and to make a recommendation for according sanction. He is not the authority to grant the sanction under Section 45 of the UAPA. Therefore, in

absence of any documentary evidence to show authority of the said witness to sign the sanction order, his evidence cannot be relied upon to hold that the authorized officer of State Government accorded sanction to prosecute the accused persons as required by Section 45 of UAPA.

64. PW-4 Radhesham, the then District Magistrate of Nanded, accorded sanction under section 7 of the Explosive Substances Act, 1908 for committing offence under section 5 of the aforesaid act and under section 17 of the Arms Act for committing offence punishable under section 25 of the Arms Act. In his examination in chief he states that he perused the entire case and found *prima facie* material to grant sanction under above provisions against the accused persons. In his cross-examination he admits that his assistant had scrutinized the file and submitted with scrutiny notes. This witness has thoroughly examined the papers but he has failed to tell the name of investigating officer on 29.12.2006. According to him he passed defective sanction order earlier on 18.09.2006. Therefore, the evidence of this witness suggests that he did not scrutinize the file personally but relied upon the notes prepared by his assistant. Therefore the sanctions in the instant matter are defective and this goes to the root of the matter.

65. In the course of arguments, learned Special P. P. has claimed that the case is perfectly proved, the prosecution witnesses have cogently deposed corroborating version of each other, the facts of recovery of live pipe bomb from the spot of offence, injuries on the bodies of the A-6 Himanshu, A-7 Naresh, A-8 Maroti, A-9 Yogesh and A-10 Gururaj resulting from the blast, recovery of splinters from their

bodies and their connection with A-13 Rakesh, who imparted training of bomb making, are established, the forensic evidence depicts that explosive material was consciously stored in the house of A-2 Laxman, the role of A-3 Sanjay, A-11 Milind, A-12 Mangesh, A-4 Ramdas and A-5 Umesh is also pointing towards their guilty mind and therefore the prosecution has successfully established all offences against the accused persons.

66. Learned defence counsels have strenuously argued that the prosecution has failed to bring forth a coherent story which would make its case believable, there are material inconsistencies and major discrepancies in the evidence of police witnesses about recovery of live bomb from the spot, a self destructive explosion of fire crackers due to their negligent storage is given colour of Hindu Terror with ulterior motive, the recoveries of cartridges are foisted to create chain between the present incident dated 06.04.2006 and the IED blasts which took place at Parbhani and Jalna, there is no evidence to prove complicity of the accused persons and therefore an order of acquittal has been sought for.

67. In regard to the rival contentions noted above, it shall be profitable to mention observations of Hon'ble Apex Court in **Inder Singh Vs. State [1978 (4) SCC 161]** which read as underground -

'if a case has some flaws, the same has to be considered too inevitable because human beings are prone to err, proof beyond reasonable doubt is a guideline, not a fetish and guilty man cannot get away with it because truth suffers some infirmity when projected through human processes, contradictions and omissions are bound to occur in any case for trial but

those cannot disturb or shake or challenge the basic fabric or the core of the case. From the above established position of law, minor aberrations and contradictions cannot harm otherwise believable prosecution case so long as the same does not occasion failure of justice by striking at the root of the case’.

68. Coming back to the instant matter, after evaluating above evidence of the prosecution witnesses minutely, the first and foremost question to be considered is whether the accused persons were found in possession or had under their control explosive material under suspicious circumstances with knowledge thereof to endanger life in India or to enable any person by means thereof to endanger human life. The first police officer to visit the spot of offence was PW-22 Ravindra, the then Asst. Police Inspector attached to Bhagyanagar Police Station. His evidence before the court coupled with his FIR (Exh.514) has suggested that initially he was of the opinion that the blast took place due to negligent storage of fire crackers in the house of A-2 Laxman. It is interesting to note that in the FIR the said witness has clearly stated that the fire crackers were kept under the couch (दिवान) in negligent manner. It means that before lodging the FIR the said witness had carried out search of the house and found only fire crackers under the couch. This belies the prosecution claim that the live bomb was kept under the couch at the time of explosion. Another important aspect as can be deduced from the evidence of PW-43 Vijaykumar and PW-19 Bapu, both police officers, is that soon after receiving information about the blast they had been to the said place along with a sniffer dog (Soni) and nothing objectionable was detected by the said dog. A detection dog or sniffer dog is trained to use its senses to detect substances such as

explosives, illegal drugs, wildlife scat, currency, blood and contraband electronics such as illicit mobile phones. In the instant matter the assistance of the sniffer dog was taken but nothing objectionable was detected by it during the initial search.

69. The evidence given by PW-22 Ravindra, PW-43 Vijaykumar and PW-19 Bapu discloses that soon after the explosion fire brigade was called and the fire was doused by pouring water and the rooms and floor in the house were wet. If the version of PW-43 Vijaykumar is to be believed the live bomb was detected at around 4.00 p.m. PW-22 Ravindra did state in his examination in chief about recovery of such bomb on 06.04.2006 but it is interesting to note that in his initial examination in chief he narrated about recovery of 20-21 articles from the house, he detailed their description but did not utter a single word about recovery of an objectionable and most significant article i.e. pipe bomb. Therefore, the evidence of PW-22 Ravindra is not free from doubts. According to him, even though the whole house was wet due to pouring of lot of water by fire brigade, the rexine bag containing live pipe bomb was not wet. In addition thereto, the explosion was of such magnitude that it blew away the windows and doors of the house and took lives of two persons while injuring others. But the evidence of PW-22 Ravindra suggesting that there was no indication of burning on the said rexine bag when it was recovered is virtually impossible and both these aspects go against the prosecution story. As revealed from the evidence of PW-29 Chandrahas, Forensic Expert, the detonator examined by him was of such material that it could have caused blast if pressure was applied to it or would have come in contact with heat. Therefore, in

all probabilities if the live bomb was kept under the couch at the time of the explosion either it would have exploded or the bag containing the said bomb would have some traces of burning or would have been wet due to pouring of water by fire brigade. Absence of any of the three contingencies is not natural and the prosecution case is totally shaken by such recovery.

70. In the evidence PW-22 Ravindra deposes that from 06.04.2006 to 08.04.2006 he and his team conducted search in the house and no one else did recover anything from the house. Contradicting above version the other investigating officer PW-34 Ramesh states that on 07.04.2006 he carried out search of the spot i.e. house of A-2 Laxman and recovered 47 articles. According to PW-34 Ramesh, prior to 08.04.2006 the live bomb was in the muddemal room of Bhagyanagar Police Station but the evidence of PW-22 Ravindra shows that soon after recovery of the live bomb it was handed over to PW-19 Bapu, the BDDS Officer, for defusal. Therefore, there is variance in the evidence of the two important witnesses PW-22 Ravindra and PW-34 Ramesh regarding recovery of the live bomb from the spot. All the above circumstances point out towards a creation of a story to show active role of the accused persons in the alleged offences.

71. Learned Special P. P. has argued that the splinters were recovered from the dead bodies of A-6 Himanshu and A-7 Naresh as well as body parts of injured A-1 Rahul, A-8 Maroti, A-9 Yogesh and A-10 Gururaj, all of them had assembled in the house of A-2 Laxman to hatch conspiracy and to plan the bomb explosion and suddenly the bomb got exploded and therefore according to him this evidence is

sufficient to establish guilt of the accused persons for offences punishable under sections 4(b) and 5 of the Explosive Substances Act, 1908. In this connection, it is discussed in earlier paragraphs that the recovery of live bomb from the spot is doubtful. The meaning of word splinter given in Cambridge dictionary is 'a small, sharp, broken piece of wood, glass, plastic or similar material'. Although the splinters were recovered from the body parts of the accused persons, there is nothing established on record that the said splinters were of the pipe bomb suggesting involvement of these accused persons in keeping the explosive substance with *malafide* intention. There is clear evidence of PW-13 Amol Jadhav that he had stated before police that A-7 Naresh was running a shop of fire crackers and he did state before police the above aspect. Moreover there was recovery of boxes of fire crackers from the spot and FIR was also depicting the explosion due to negligent storage of fire crackers. All these aspects are unfavourable to the prosecution version about bomb explosion and recovery of live bomb from the spot.

72. In the evidence of PW-29 Chandrahas, an expert in forensic science, it has come on record that there was gray colour powder recovered from the house of A-6 Himanshu. The investigating officer PW-34 Ramesh has not uttered a single word regarding the recovery of such powder from the house of A-6 Himanshu although the panchnama drawn by him (Exh.494) did speak about such recovery. The panch witness PW-12 Dr. Deepak has not supported the prosecution case about recovery of such powder from the house of A-6 Himanshu. In view of the above circumstances,

the recovery of alleged explosive material from the house of A-6 Himanshu is also doubtful.

73. The accused persons are prosecuted for committing offences punishable under sections 18 and 23 of UAPA. Said provisions deal with conspiracy or attempt to commit or abet in any manner the commission of Terrorist Act or any act preparatory to the commission of such act. As narrated earlier, the evidence of the prosecution witnesses in that regard is totally untrustworthy. None of the independent witnesses have supported the prosecution story that the accused persons were involved in the alleged training camps of bomb making, they had stored or they were making the bomb at the house of A-2 Laxman at the relevant time. There is no material produced by the prosecution to show how and from where the material required for preparation of pipe bomb was secured by the accused persons. It is alleged in the charge-sheet that the accused persons are connected with Hindu Extremist Organizations like RSS, VHP or Bajrang Dal. But there is absolutely no document tendered by the prosecution to establish that any of the said organizations were notified as 'Terrorist Organization' by the Central Government at the relevant time. Therefore, mere recovery of the literature, diaries, communications relating to any of such organizations cannot be construed as part of conspiracy or aiding the terrorist organization by the accused persons. For the above discussion, prosecution has failed to establish any of the offences and points No. 1 to 8 are answered in the negative.

AS TO POINTS NO.9 AND 10:

74. The prosecution alleges that A-3 Sanjay, A-4 Ramdas, A-5 Umesh, A-11 Milind and A-12 Mangesh had knowledge that the other accused persons were involved in unlawful activities, they concealed the said accused persons whom they knew to be the offenders and by admitting them in different hospitals they caused disappearance of evidence with intention to screen the offenders from legal punishment. With regard to A-3 Sanjay, A-4 Ramdas and A-11 Milind, there is absolutely no evidence from the mouth of any of the prosecution witnesses regarding their role in the alleged offences. The allegation against A-5 Umesh and A-12 Mangesh is that they assisted in carrying A-1 Rahul to Pusad for treatment after getting injured in the blast on 06.04.2006 and according to the prosecution case these accused persons had knowledge about unlawful activities of A-1 Rahul and other accused persons. In this connection, the evidence of PW-11 Arvind speaks of taking A-1 Rahul to the hospital at Pusad on his ambulance on the say of A-5 Umesh and witnessing A-12 Mangesh throwing blood stained clothes of A-1 Rahul in Asna River. But his evidence before the court is a clear improvement because he never stated these aspects before police. In the said backdrop, there is no evidence to connect A-5 Umesh and A-12 Mangesh also in the alleged offences. For all the above reasons, the prosecution has miserably failed to establish any offence against the above accused persons. Therefore, points No. 9 and 10 are answered in the negative.

75. For the discussion herein-above, the prosecution has not been able to prove guilt of the accused persons for committing any of

the above offences. Hence, following order is passed in answer to point No.11:-

ORDER

1.	The accused Nos. 8 Maroti Keshav Wagh, A-9 Yogesh Ravindra Deshpande, A-10 Gururaj Hauran Tuptewar and A-13 Rakesh Dattatraya Dhawade are hereby acquitted of the offences punishable under Sections 4(b), 5 of the Explosives Substances Act, 1908, sections 304 (Part-1), 286, 338 r.w.s. 149 of Indian Penal Code, 3/25 (1B)(a) of Arms Act and sections 18 and 23 of Unlawful Activities (Prevention) Act, 1967 vide Section 235(1) of the Code of Criminal Procedure, 1973.
2.	The accused Nos. 3 Sanjay @ Bhaurao Vitthalrao Choudhary, A-4 Ramdas Anandrao Mulange, A-5 Umesh Dinkarrao Deshpande, A-11 Milind Arvind Ektate and A-12 Mangesh Ramdas Pande are hereby acquitted of the offences punishable under Sections 212, 201, r.w.s. 149 of Indian Penal Code vide Section 235(1) of the Code of Criminal Procedure, 1973.
3.	Bail bonds of the accused persons stand discharged.
4.	Muddemal properties i.e. cartridges and defused pipe bomb be confiscated to State and be sent to District Magistrate, Nanded for disposal according to law and rest of the properties being worthless be destroyed as per rules after appeal period is over.
5.	The accused persons are directed to execute bail bonds with surety in the amount of Rs.25,000/- each to appear before the higher Court in compliance of Section 437-A of the Code of Criminal Procedure, 1973.
	(Judgment dictated and pronounced in the open Court)

Date: 04th January, 2025

(Chandrashekhar. V. Marathe)

Addl. Sessions Judge,
Nanded.

CERTIFICATE

I affirm that the contents of this PDF judgment /order are same word to word as per the original order.	
Name of the Stenographer	: B.R. Khindre, Steno Grade-1
Name of the Court	: District Judge-1 & Addl. Sessions Judge, Nanded.
Date of the Judgment/Order	: 04.01.2025
Judgment /Order signed by the P.O. on	: 04.01.2025
Judgment/Order uploaded on	: 04.01.2025

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