

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
) No. 09 CR 849
)
 v.) Magistrate Judge Nan R. Nolan
)
TAHAWWUR HUSSAIN RANA)

**GOVERNMENT’S THIRD MEMORANDUM
IN SUPPORT OF MOTION FOR DETENTION PENDING TRIAL**

The UNITED STATES OF AMERICA, by Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, submits the following in further support of its motion to detain defendant Rana pending trial.

BACKGROUND

As detailed in the two-count complaint currently pending against defendant Rana, he is charged with providing material support to a conspiracy to commit terrorist attacks overseas, in violation of Title 18, United States Code, Section 2339A. The complaint alleges that Rana assisted David Headley as he carried out surveillance of a Danish newspaper facility, one target of intended attacks. Headley was initially charged in a separate complaint relating only to the plot to attack the newspaper but has now been charged both with that plot and the November 26, 2008, attacks in Mumbai,

India, by Information in 09CR830.^{1/} The investigation into Rana's conduct continues.

ARGUMENT

In seeking a bond, defendant Rana has argued that he believes in non-violence, citing his membership in the Iqbal society. Rana has even gone so far as to claim to this Court that his beliefs are akin to those of Gandhi. He also claims to have been a "dupe" of Headley. Ironically, in invoking the name of a man who embodied the principles of non-violence and speaking the truth, Rana seeks to mislead this Court as to the extent of his admiration and support for mass murderers. We note that to support his claim of being opposed to violence, defendant called witnesses who have had very limited interaction with Rana, including one who has done nothing more than exchange greetings with Rana and another whose business dealings consist of purchasing meat from Rana's butchery. However, a review of a recent conversation intercepted between Rana and Headley demonstrates that the witnesses who testified have little idea of who Rana really is.

On September 7, 2009, Headley and Rana took a long car ride and discussed several topics. This conversation was recorded. During their conversation, Headley and Rana discussed the attacks that occurred in late

^{1/} A copy of the information filed against defendant Headley is attached.

November 2008 in Mumbai, India, in which approximately 170 people were killed. It is clear from the conversation and extrinsic corroboration that Rana was told just days *before* the Mumbai attacks that the attacks were about to happen. Elsewhere in the conversation, Rana asked Headley to pass Rana's compliments directly to the specific *Lashkar e Tayyiba* member they both knew who had coordinated the attacks. Later in that conversation, Rana and Headley both discussed targeting the National Defense College in Delhi, India for a future attack. Simply put, Rana's own statements in this conversation, among others, completely belie his argument to this court that he is either a dupe or pacifist.

Rana Knew In Advance of the Mumbai Attacks

In the September 7th conversation, Headley and Rana discussed Rana's meeting with their associate, "Pasha," in Dubai just days before the Mumbai attacks began. "Pasha" is a nickname for Abdur Rehman Hashim Syed, who the government has charged in a separate complaint (09 CR 862) for his involvement in the conspiracy to attack the Danish newspaper. (As set forth in that complaint, "Pasha" is a retired Pakistani military officer who was Headley's direct link to Ilyas Kashmiri, one of Pakistan's most wanted terrorists and a direct link to al Qaeda.) As discussed below, Headley and Rana discussed how Rana had learned during an in person meeting between

Rana and Pasha in Dubai that the Mumbai attacks were to happen *before* they took place:

Headley: When Pasha met you in Dubai [and] told you this was about to happen – this one, after that when you landed in America, how did you find out about it?

Rana: I was in the air.

Headley: How did you find out about it in the air –

Rana: Yeah

Headley: – was it coming in writing there.

Rana: I was in the air and [ui] I went to –

Headley: Yeah

Rana: I went from Dubai to China – was supposed to board the plane for America – this has started.

Headley: In Mumbai, yeah.

Rana: Yeah.

* * *

Headley: Did Pasha not say that?

Rana: Yes.

Headley: When he mentioned that –

Rana: What?

Headley: Pasha had mentioned that in Dubai that this is how –

Rana: That he said to me as well; but I deliberately have started planning.

Headley: Yes, yes absolutely.

(September 7, 2009 (emphasis supplied))^{2/}

Travel records for Rana corroborate that Rana was in Dubai days before the Mumbai attacks and was returning from China when the attacks occurred. Rana flew to Dubai and arrived on November 21, 2008.^{3/} Rana remained in Dubai until November 24, 2008. On November 24, 2008, Rana traveled to China from Dubai.^{4/} Then, on November 26, 2008 – the day that the Mumbai attacks started – Rana boarded a plane to return to America.^{5/}

In his post-arrest statement, when this conversation was reviewed with Rana, he was asked “what are you guys talking about there?” Rana responded “that thing that happened in, uh, uh, India . . . um, they were, uh, uh, I think people who hijacked, uh, hotels or something . . . [in] Mumbai.”

^{2/} The government notes that its translation and transcription of conversations referenced in this filing are preliminary.

^{3/} Rana traveled from Mumbai, India to Dubai, United Arab Emirates, on an Emirates Airlines’ flight.

^{4/} Rana traveled from Dubai to China on an Emirates Airlines’ flight on November 24, 2008.

^{5/} Rana traveled from China through South Korea to Chicago on an Asiana Airlines flight.

(questions omitted) Further, Rana acknowledged that he had met with “Pasha” in Dubai, and that “Pasha” even stayed with Rana. Rana, however, falsely denied being told by “Pasha” specifically that the Mumbai attacks were about to happen. Instead, Rana claimed that “Pasha” only told him that “they were saying that you know, we are fighting in Kashmir, and we are doing all this thing, and there things which we are planning and all that.” Rana also stated that “Pasha” told him that “you know, uhm, a lot of bad things are going to happen, uhm, hold on – Pasha, no – I meant – but let’s assuming that he said that, at that time, if he said that . . . that, uh, bad thing was uh, fine – okay ... there all the time.” (questions omitted).

In short, the evidence shows that Rana was told in advance that the attacks in Mumbai were to happen; Rana, however, can at best claim unconvincingly that he was hearing that some other attack was about to happen.

Rana Compliments LeT Member A on the Mumbai Attacks

On or about August 17, 2009, Headley sent an email to LeT Member A, advising him that Headley and Rana had “heard some music videos on the net, you had made.” The reference to “music videos” is believed to be a coded reference to the intercepted communications between LeT Member A and the attackers during the November 2008 Mumbai attacks which had since been

played during public broadcasts of the attacks.^{6/} Headley advised LeT Member A that Rana had given LeT Member A the name “Khalid bin waleed.”^{7/} The email exchange also makes clear that LeT Member A knew Rana. Indeed, LeT Member A specifically asked Headley to pass a message from LeT Member A of “regards to Dr rana” in an email on August 11, 2009, before Headley told LeT Member A that same day that “Dr Rana has named you Khalid bin waleed.”

During the September 7, 2008, car ride, moments before the discussion about Rana’s advance knowledge of the attacks, Rana asked Headley whether he had been in contact with LeT Member A. After Headley advised that he had been in contact, Rana stated words to the effect of “pass along a message for me,” and continued that “in the world, if there had been . . . a medal for command, top class.” At this point, Headley interrupted Rana, and informed him that he already had passed that message and “I [Headley] took your [Rana’s] name when I said it.” Rana responded “there is no doubt, it is a very befitting name for him. Very good. Good job.” Headley then explained that while LeT Member A briefed the attackers on the targets, Headley identified

^{6/} In late June and early July 2009, Britain’s Channel 4 news broadcast the intercepted cell phone communications between the ten attackers who carried out the Mumbai attacks and their controllers.

^{7/} Khalid bin Walid is recognized as one of the most successful commanders in military history, having been the commander of the military forces of the Prophet Muhammed.

a different LeT member by name as the trainer of the attackers – “Training was by Abu Qahafa.”^{8/} Rana responded that “whatever mixture you guys have made, whichever person did it.” Headley added that, “this Jamaat [group] prepares people really well,” and Rana agreed, “yeah, there they stood their ground.”

In his post-arrest statement, Rana acknowledged that he knew “Khalid Bin Walid was a general in Islamic history,” and conceded that he had “labeled” LeT Member A with that name. Rana further acknowledged he knew that the person to whom he gave this name was “one of the main planners” for LeT. Rana, however, falsely claimed that he had dubbed LeT Member A “Khalid bin Walid” because of his role in attacks in Kashmir (“freedom fighting”), as opposed to his coordination of the Mumbai attacks.

Far from advocating non-violence, Rana’s own statements reveal his support for the brutal killing of 170 people. Rana was told of the attacks before they happened and offered compliments and congratulations to those who carried them out afterwards. Even if one were to credit Rana’s false post-arrest claim that his compliments directed to “one of the main planners” for LeT – a designated terrorist organization – only related to attacks in

^{8/} Open press reports indicate that Abu Kahafa was implicated by two of the three defendants on trial in India. www.thehindu.com/news/national/articler62794.ece

Kashmir, it is quite clear that Rana is no Gandhi.

Rana and Headley Discuss the National Defense College as a "Target"

Finally, in that same September 7th conversation, while still discussing LeT Member A, Rana and Headley discussed the National Defense College in India as a "target." Headley added this target to their list of previously discussed targets,^{9/} saying "sorry not four, five," and identified the "defense college." Rana responded, "right, this is it, I knew already." Rana added that he "thought it is the target," using the English word "target." Headley explained that he would ask LeT Member A to "do that first" [attack the Defense College]. Rana responded affirmatively, "in this matter, do the defense." After Headley states that "we" would use LeT Member A to carry out the attack on the Defense College, Rana again offered praise for Let Member A and LeT: "they should be really commended. I appreciate them from my heart."

Once again, Rana's own statements, made in what he believed to be a

^{9/} Earlier in the September 7, 2009 conversation, Headley discussed four targets with Rana -- Somnath (a temple in India), Denmark, Bollywood (a reference to the Indian film industry) and Shiv Sena (a political party in India with roots in Hindu nationalism). In his post-arrest statement, Rana falsely claimed that these were references to potential business ventures. It is difficult to imagine why a person who praises the work of a designated terrorist group that attacks India would look at an Indian temple or a Hindu nationalist party as a business venture. And it bears note that, as set out in the complaint, "business" and "investments" were code words used by Headley, Rana, "Pasha" and others to describe terrorist plots.

private conversation, belie his argument to this court that he believes in non-violence. The statements acknowledging that the Defense College is a “target,” and affirmatively saying “do the defense” are grossly inconsistent with both his portrayal that his beliefs are consistent with Gandhi and his claim that he was unwitting of Headley’s activities.

CONCLUSION

For the foregoing reasons and those previously argued in earlier submissions, this Court should detain defendant Rana pending trial.

Respectfully submitted,

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