



Divia Moorjani, marketing executive

I believe the verdict won't be given for another year. Even if judgment is given, it should be life imprisonment. A death sentence won't serve the purpose. But even that will be delayed because he has the right to appeal.



Sanjeev Sharma, proprietor, ad agency

Kasab should be hanged. It should be covered live so that the whole world can get the message that whoever harms Indians will be punished. I do believe judgment will be delivered correctly in this case.



Deepak Aghakar, finance director

Kasab deserves no mercy. India must send out a strong message by giving him the death sentence. It was criminal to have spent Rs35 crore on him. If we keep going at this rate, Kasab will end up having a UID as well.

# World awaits justice for 26/11 victims

## Judgment days sets off pangs of loss as grieving families struggle to obtain closure

Uttara Choudhury, NEW YORK

After nearly 13 months of hearings, the eyes of the world media will be fixed on Arthur Road jail, where a special court will hand down a verdict on Pakistani gunman Mohammed Ajmal Amir Kasab today. For the American families of the victims, the wait for the verdict has set off intense emotions and pangs of loss as they struggle to obtain closure.

Judge ML Tahaliyani's court convenes on Monday at the Arthur Road prison where Kasab is being held, a possible death sentence in the offing for the defendant.

"It does bring up a wave of emotion although I've never really been through the feelings of loss and grief. But it does intensify it," said a soft-spoken Kia Scherr, whose husband Alan, 58, and daughter, Naomi, 13, were killed at Oberoi Hotel. They were there as part of a 25-member Synchronicity Foundation team exploring yoga and meditation.

"In general, I don't favour the death penalty. But, I respect whatever the Indian judicial system decides. They need to do what they need to do. Personally, what I favour is imprisonment, education and rehabilitation."

Scherr has co-founded an organisation called 'One Life Alliance' to honour the sacredness



(From Left) Kia Scherr with her husband Alan and daughter Naomi a few months before they were killed at the Oberoi Hotel; one of the Nariman House victims Rabbi Gavriel Holtzberg at a wedding in Mumbai in 2006; Mira Kamdar lost her cousin in the terror attacks

of life. She is currently conducting workshops in New York on forgiveness. She has also been invited to speak at a Muslim mosque in Northern Virginia and several US institutions.

"I just can't sit back and be bitter. I want to make a positive contribution by sending out a message of love and peace," said Scherr, who plans to visit Mumbai this year to retrace her husband and daughter's last journey in India.

"I really want to meet the people in Mumbai. My husband and daughter were having the time of their lives in India. They loved the

place, the food and the colours. My husband could have lived there — he loved the place so much," said Scherr.

The FBI regularly updates Scherr on David Headley, who played an integral part in the attacks. "I don't know how the plea bargain [that Headley has struck for a lighter sentence] works, but if I have an opportunity to go to the sentencing, I would like to address him. I would say: 'Here I am. I'm the mother and wife of two who were killed. Here, see their photos.' I want him to see there are human beings who are affected by this,"

Scherr said. Even though the verdict will make headlines in the US media, does the US government actually care what happens to Kasab?

"I think the government probably cares that Indians are satisfied," explains Mira Kamdar, a senior fellow at the World Policy Institute in New York and author of Planet India. "The US is the only advanced economy in the world that imposes the death penalty as it did with Timothy McVeigh, the terrorist behind the Oklahoma City attack in 1995. So, the death penalty for Kasab will

probably seem appropriate."

Personally Kamdar, who lost a cousin — Reshma Parekh and her husband Sunil — in the tragedy, has a different take. "I will feel no gratification, satisfaction or relief if Kasab is given the death sentence. As much as I mourn their deaths, I oppose the death penalty, and don't believe state murder serves the interests of justice. The persons I would like to see punished are Kasab's handlers — the people who gave the orders, who turned him into a killing robot — as well as Headley."

"When the masterminds be-

hind these attacks are punished, their networks destroyed, and when conditions of dire poverty that lead people such as Kasab's parents to literally sell their children to terrorists, are addressed, only then will I feel justice has been served," she said.

Over a year later, the three-day rampage still rattles people in Crown Heights, Brooklyn, the nerve centre of the Lubavitch community and the neighbourhood where Rabbi Gavriel Holtzberg grew up. Holtzberg and his wife Rivka were brutally tortured before being killed by the terrorists who struck at the Jewish centre in Nariman House. Their two-year-old son Moshe was saved by his quick-thinking Indian nanny.

"I can't speak for everybody but I want justice to be done," said a friend of Rabbi Holtzberg, who works in a Chabad house in Brooklyn. He said he felt pained that there was "nothing accidental" in Muslim terrorists killing the only New York rabbi in Mumbai.

However, a guilty verdict and death sentence could lead to a lengthy appeal in higher courts. Despite maintaining capital punishment, which is reserved for what the Supreme Court rules as the "rarest of rare" cases, India has only executed two people since 1998.

### TERROR TRIAL



#### 2008

NOV 26 Terrorist Mohammed Ajmal Amir Kasab is arrested at Girgaum

NOV 30 Kasab records confession before police

DEC 30 Ujjwal Nikam appointed as special public prosecutor

#### 2009

JAN 13 ML Tahaliyani appointed as judge to conduct the trial

FEB 25 Mumbai crime branch files 11,000-page charge sheet

MAR 30 Anjali Waghmare appointed as Kasab's lawyer

APR 15 Waghmare's appointment revoked

APR 16 Abbas Kazmi appointed as defence lawyer April

APR 17 Trial begins, Kasab claims he is a juvenile

MAY 02 Court declares that Kasab is not a juvenile

MAY 06 Charges framed against the accused, Kasab pleads not guilty to all 86 charges, including murder of 166 people

MAY 08 First witness PSI Bhaskar Kadam identifies Kasab in court

MAY 19 Hyderabad college principal says Kasab used fake I-card

MAY 21 Prosecution seeks to alter charges in the 26/11 terror case to include liberation of Jammu and Kashmir as an objective in the LeT conspiracy

JUN 23 The special court issues non-bailable warrants against 22 absconding accused including Jamaat-ud-Dawa (JUD) chief Hafeez Saed and chief of operations-Lashkar-e-Taiba Zaki-ur-Rehman Laqvi

JUL 16 Court views CCTV footage of Kasab's movements outside CST

JUL 20 Kasab confesses to his role in the attacks

NOV 30 Kazmi removed as Kasab's defence lawyer

DEC 01 KP Pawar officially takes over the case

DEC 16 Prosecution completes case in 26/11 terror attack.

DEC 18 Kasab denies all charges, claims that he was falsely implicated in the case because he is Pakistani

#### 2010

MAR 09 Final arguments begin

MAR 31 Arguments in the case end, special judge ML Tahaliyani pronounces May 3 as day of judgment for Kasab, co-accused Fahim Ansari and Sabauddin Ahmed

APR 27 Prosecution files two more sworn affidavits of victims

## Sabauddin and Fahim's fate hangs in balance

Menaka Rao

What lies in store for Fahim Ansari and Sabauddin Ahmed? The duo is charged with preparing and supplying maps of Mumbai to the top guns of Pakistan-based terror outfit Lashkar-e-Taiba (LeT) prior to the November 26, 2008, attacks.

As the special court gets ready to deliver its verdict, the information elicited from David Coleman Headley, the American LeT operative, by the Federal Bureau of Investigation (FBI) will weigh heavily on the duo's cases. Headley pleaded guilty to conspiring in the 26/11 attacks.

Several important questions on the case surfaced during the trials. The judgment will end the suspense.

### PROSECUTION'S CASE

The crime branch claims that in 2007, Ansari did a reconnaissance of various targets in south Mumbai and prepared a detailed map for LeT. He changed his identity and enrolled in a computer institute. He even rented a house at Lamington Road.

Ansari, the crime branch alleged, travelled to Nepal in February 2007 to hand over the maps to co-accused Sabauddin Ahmed who, in turn, passed it on to LeT conspirators. A witness, Nooruddin Shaikh, claims he saw maps being handed over.

One of these maps found its way to Pakistani gunman Abu Ismail, who was shot dead at Girgaum Chowpaty. The handwriting on the map is similar to Ansari's, said an expert.

Ansari and Ahmed were arrested by the Uttar Pradesh police for the December 31, 2007, attack on the CRPF camp at Rampur. Ansari was found in possession of the maps, a fake Pakistani passport, and some other items.

In his confession, Kasab claimed he was told about their contribution by LeT chief Zaki-ur-Rehman Lakhvi.

### THE QUESTIONS

#### How was the map spotted?

The map allegedly found inside Abu Ismail's trouser pocket was a clean, neatly ironed out one. There was not a spot of blood on it. Defence advocate Shahid Azmi, during cross-examination of the panch witnesses and the doctors who examined Ismail, pointed out that Ismail's clothes were drenched in blood. In fact, there was blood even in the corners of the pocket where the map was allegedly found. Advocate RB Mokashi argued that it's impossible for the map to remain spotless and unfolded.

#### Did Shaikh go to Nepal?

The prosecution has produced no documentary evidence to prove Shaikh was in Nepal in February 2007. The court was told that the police had made no effort to get documentary evidence.

#### Why not Google maps?

Judge Tahaliyani asked Nikam why the conspirators didn't use online maps such as Google Earth. Nikam replied they must have thought it better to use handmade maps.

## Shrewd & slimy: Games Kasab played

### Gunman turned out to be a tricky customer for the prosecution

Menaka Rao

Mohammed Ajmal Amir Kasab is no country bumpkin trapped in the shenanigans of terror outfits in Pakistan. As the 26/11 trial progressed, the lone gunman captured alive in the incident turned out to be a shrewd player. He resorted to various techniques, each of them ingenious and unexpected, to derail the prosecution's case.

### I AM A JUVENILE

It was Kasab's first line of defence. On April 17, 2009, he demanded that his case be transferred to the juvenile court. Special public prosecutor Ujjwal Nikam produced evidence of two doctors and the then jail superintendent to prove that Kasab was not juvenile and was 21 years of age on May 2, 2009. The court concurred with the prosecution. Later, when the court asked Kasab his age while framing the charges, he let it slip that he was 21.

### I CONFESS

On July 20, 2009, Kasab produced a dramatic moment in the court by saying *mujhe gunaah kabool hai* (I confess to my crime). After consulting his lawyer, Abbas Kazmi, Kasab narrated a four-hour long story of his journey from Pakistan to Mumbai on November 26, 2009.

However, special public prosecutor Ujjwal Nikam refused to buy the confession as true. According to Nikam, Kasab had



ILLUSTRATION: SUDHIR SHETTY

portrayed himself as a mere foot soldier and had transferred all the responsibility to his slain partner, Abu Ismail. Besides, he did not admit to killing senior police officers Hemant Karkare, Vijay Salaskar, Ashok Kamte and assistant sub-inspector Tukaram Ombale. The court passed an order taking the confession on record.

**FILMY CHAKKAR**

After keeping quiet about the court's proceedings for nearly four months, Kasab decided to take on the prosecution when the court started recording his statement under section 313 of the Criminal Procedure Code. He denied every single bit of evidence put up against him. In his

typical cocky style, Kasab narrated a filmy story (real one according to him).

Stressing that he was not the "bukka" (shortie) who witnesses referred to in the case, Kasab said that a lookalike — Abu Ali — was the gunman at the CST railway station. He explained that he had come from Pakistan in Samjhauta Express to Mumbai "picture ke chakkar mein" (in connection with movies) and was caught at Juhu beach by the police 20 days before the incident. Kasab said he had a Pakistani passport, which was seized by the police. He was first in custody of "aam" police and was handed over to the crime branch after the attack, he claimed.

### Menaka Rao gets an insight into the man behind the fiend

## 'Mee atireki nahi'

The almost fanatical interest with which the world has been following the Kasab trial is not without reason. Possibly the first *Friday* to be caught alive in the act, Mohammed Ajmal Amir Kasab, 22, is a tight knot of contradictions. I watched with cynicism as he swung from a conniving, scheming, trained criminal to a bizarrely endearing, bratty boy-man — sometimes eager to please, yet quite evidently, deviant to the core.

But, of all the things that moved me about the trial and its horrifying minutiae, was the man himself. Friends thought it scandalous that I could view the Kasab as a human being.

While I felt their anger, it did not kill my interest

in the living 'terrorist'. Kasab, on his part, tried to assert that the word 'terrorist' itself is open to interpretation. "Mee atireki nahi (I am not a terrorist)," he told the judge recently.

A telling insight into his mental state was his animation on occasional witness statements or sightings of his AK-47. However, as the case progressed, Kasab would lapse into silence as if tired of all the attention. It turned out that in his silence, he was imbibing every little detail of the case, the legal system and, most importantly, Marathi. Guards said he would entertain them by mimicking courtroom

scenarios and singing songs.

Another facet of his largely indecipherable persona was revealed when one of his younger victims deposed. When the child identified him as the man who shot at and crippled her, Kasab could be seen squirming, unable to meet her eye.

One day, as if trying to lift the ennuil the case had sunk into, Kasab announced that he wanted to confess. He then launched into a breathless, excited narrative. It seemed like he wanted to get the trial over with, fast.

On another day, Kasab suddenly told the incredulous judge that he wanted perfume, basmati biryani and that the jail authorities were poisoning him. Tahaliyani was not amused.

Kasab then turned his attention to special public prosecutor Ujjwal Nikam. But every time he smiled at Nikam, the lawyer would respond with gestures indicating the noose or slitting of the throat. Kasab knows well what the consequences of the trial will be. And he has made it clear that he doesn't want to escape death.

One last thing that made an impression on me was his voice. Kasab's voice can be barely heard in court, it sometimes rises slowly, touches the highest pitch, and then drops. It's a voice one would find hard to reconcile with a ruthless killer.

### First PERSON

## Tahaliyani's intrepid team pulls it off

Menaka Rao

"Only the unknown frightens men. But, once he has faced the unknown, that terror becomes the known." Antoine de Saint-Exupery's allusion never rang truer than for the court staff involved in the 26/11 trial.

Additional principal judge ML Tahaliyani started on the trial of the century facing his biggest hurdle — putting together a top class court team.

But, he came up against a strange resistance — members of the city civil and sessions court were so petrified of Pakistani gunman Mohammed Ajmal Amir Kasab that they refused to be part of the trial team.

A court source said, "The younger staff, particularly, said their families had forbidden them from taking on such a dangerous project."

Younger staff, who held the position of havaldar, peon and hamaal, was ever harder to find.

### Keen court-iers

- CLERICAL STAFF**
- ▲ Mrs AJ Khan
- ▲ VP Chavan
- ▲ Mrs SS Bhat
- ▲ Mrs RR Dalvi
- ▲ Mrs SR Mhapankar

- PEONS**
- ▲ VS Panchal
- ▲ SM Arolkar
- ▲ AS Shinde
- ▲ NB Gaura

While every judge is entitled to a havaldar, judge Tahaliyani had to settle for a peon for the same job. When the staff was finally put together, he could not have asked for a better team.

The clerical staff, comprising five people, decided their fondness for judge Tahaliyani was greater than their fear of Kasab. They had worked with him earlier and liked his disciplined style of working. In total, nine members were selected.

Working at the Arthur Road jail court is no easy task. The court is confined from all sides and can be claustrophobic. The staff is forced to restrict their interaction to two-three lawyers and co-staff members.

There were also huge sacrifices expected of them. Last year, they had to forgo their summer holidays to ensure an uninterrupted trial. They even worked through Diwali and other holidays. Despite the daunting task of dealing with thousands of pages of evidence, articles and exhibits, the court staff never flinched.

This is a massive logistical task because each witness has to be shown articles related to his deposition, which included bullets (empty, live, damaged), guns, bloodstained clothes, photographs of the gunmen, etc. Articles have to be labelled and shown without wasting the court's time. The staff and police coordinated like clockwork to keep them ready before the witnesses came.

## Former defence watches

Hetal Vyas

As special judge ML Tahaliyani gets set to decide the fate of Mohammed Ajmal Amir Kasab on May 3, two members of the legal fraternity in particular, are eagerly awaiting the big day — Anjali Waghmare and Abbas Kazmi — the lawyers appointed by the special court to defend Kasab, and who were subsequently sacked.

Anjali Waghmare, a member of the state's legal aid department, holds the dubious distinction of being Kasab's first defence counsel. She was sacked on the day the trial began. Speaking to DNA, Waghmare, who hoped the case would bring peace between India and Pakistan, says: "I felt humiliated at the time, but I have moved on now. It was an

experience and I have learnt a lot from it. I was given a moral and social responsibility, but suddenly things went horribly wrong."

Abbas Kazmi, Kasab's second defence lawyer, who prepared most of the case papers and who also cross-examined many witnesses, has been more vociferous about his sacking. Kazmi recently moved Bombay high court seeking action against the special judge. "This trial has taken a toll on me. I agreed to defend Kasab despite opposition and threats. Those few months were the most hectic of my life, but the hostility finally led to my sacking. I am back to a routine life now. Life has to go on. I am now awaiting the verdict," he said.

