

# National Post

News

## Release raises doubts about terrorism case



National Post ·

TORONTO - The bail release of Qayyum Abdul Jamal, the eldest of 18 accused in Canada's largest terrorist sweep, has raised questions about the strength of the Crown's case against the suspects.

Mr. Jamal, 44, once described as a spiritual leader to some of the young men who allegedly belonged to an al-Qaeda-inspired terrorist cell, was released on Monday, 17 months after his arrest.

So far in the landmark case, which is regarded as a test of the state's ability to catch and prosecute terrorists, the charges against three of the youths have been stayed. Mr. Jamal was initially implicated in a plot to bomb buildings, but that charge was dropped in September. He remains charged with participating in a terrorist group and providing or receiving terrorist training.

"At the early stages, the Crown's case tends, sometimes, to look its best. That's because at the early stages, the Crown does not have to prove it. They are just allegations," said James Stribopoulos, a law professor at York University's Osgoode Hall.

"It is not uncommon with the passage of time, with the ability of the defence to gain access to full disclosure, with the testing of evidence at a preliminary inquiry, for the truth to emerge that the Crown's case isn't quite as strong as originally believed or claimed."

In September, the Crown suddenly terminated a preliminary hearing and filed a direct indictment, sending the defendants directly to trial. The defence lawyers charged that the move came out of the state's concern that some of the accused would be discharged after the preliminary hearing.

"We were able to get the bombing charge dropped after the preliminary hearing," Mr. Jamal's lawyer, Answer Farooq, said after the bail ruling. "We're hoping to get this matter as quickly to trial as possible so he can be exonerated and go home."

Yesterday, Mr. Jamal was at his Mississauga, Ont., townhome with his wife and four children on house arrest. Almost three-quarters of the \$100,000 bond posted for his bail was collected from community members, his wife, Cheryfa MacAulay Jamal, wrote on her blog.

A publication ban prevents the media from reporting on evidence presented in court. Members of the Department of Justice could not be reached yesterday.

"If you want to know what happened, if you want to know the truth, come to the courtroom," Mrs. Jamal said yesterday. "Come hear the defence, then make a decision."

Mr. Jamal spent 13 months in solitary confinement and claims that he was beaten when he first arrived at Maplehurst Correctional Facility.

"One of the problems in our times is we no longer put sufficient stress on this presumption of freedom. Keeping someone imprisoned who has not been convicted is an exceptional measure," said Julius Grey, a Montreal-based veteran lawyer.

The 18 suspects, who were arrested in the summer of 2006, were part of a larger group of almost 50 that were under investigation, sources told the National Post. Defence lawyers for the accused have said that security officials cast their net too wide.

"There's a better-safe-than-sorry attitude," said Reem Bahdi, law professor at the University of Windsor, who researches security certificate cases and racial profiling. "These cases are made against individuals, and the people who become involved in the investigation develop tunnel vision. All they end up seeing in front of them is a terrorist. This was pointed out in the Arar inquiry."

This is only the second prosecution under Canada's new anti-terrorism laws.

"The arrest of this alleged Toronto terror cell is clearly going to be a test case [of ] the capacity of a Canadian intelligence community

to adequately and effectively pinpoint dangerous activity in Canada," said Wesley Wark, a national security expert at the University of Ottawa. "If prosecution falls apart in court, if evidence looks erroneous, that will cast a significant shadow over how well Canada has ramped up its intelligence capabilities since Sept. 11."

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