

BIHAR HUMAN RIGHTS COMMISSION (BHRC)

9, Bailey Road, Patna

FILE NO. BHRC/SUO MOTU-04/19

(Suo Motu Cognizance)

Case of death of two persons allegedly beaten by policemen in lock-up at Sitamarhi: compensation awarded for death in police custody

Date: 01.10.2019

On 9th March 2019, sudden flash of news item as BREAKING NEWS in the electronic media and news channels and various news papers viz “Indian Express” and “Times of India” to name a few, with a heading **“Bihar cops on the run allegedly after beating two men to death in police lock-up”** and **“Bihar custodial death case : Nails hammered into two men; probe ordered”** captured the attention of the Bihar Human Rights Commission. The contents of news as flashed presented a very gory and dastardly act of police authorities. The Commission taking suo motu cognizance of the matter swung into action and called for report from the various concerned authorities of the state as well as Sitamarhi District administration.

BACKGROUND FACTS

The factual expositions as culled out from the detailed report submitted by the various state authorities and Sitamarhi district administration is summed up hereunder:-

- I. One Runni Saidpur P.S. Case No. 68/2019, dated 21.02.2019 under Sections 302, 326, 394, 34 of IPC and 27 of Arms Act was registered for alleged killing of one Rakesh Kumar, R/o Village- Jivajod under the Aurai P.S. in district Muzaffarpur, in the night of 20.02.2019, on Muzaffarpur-Sitamarhi road, when he resisted the loot of his motorcycle by the two accused persons, namely, Md Gufran Alam (aged about 30 Years) and Md. Tasleem Ansari (aged about 35 Years).

- II.** In the night of 05.03.2019, a police team of the Sitamarhi district arrested aforesaid two criminals, namely, Md. Gufran Alam (aged about 30 Years) and Md. Tasleem Ansari (aged about 35 Years) in connection with above mentioned Runni Saidpur P.S. Case No. 68/2019, dated 21.02.2019 at Village- Ramdiha, P.S. Chakia, District-East Champaran at Motihari and brought them to Dumra P.S. in Sitamarhi District in the morning of 06.03.2019 at 5 A.M. for enquiry and verification.
- III.** On 06.03.2019 at Dumra P.S. under Sitamarhi district in course of interrogation the aforesaid two criminals were allegedly given rough treatment, beaten black and blue and when their conditions worsened, they were rushed to Sadar Hospital, Sitamarhi, where they died at 5.00 P.M. in course of treatment.
- IV.** The media and newspaper reports were fraught with the atrocious and brutal acts committed by police authorities which has made local populace and other people throughout the state and country agog about the actual state of affairs.

STEPS TAKEN BY THE COMMISSION (BHRC) AND REPORTS OF THE CONCERNED AUTHORITIES

- The simmering discontent and the anger of the people at large attracted huge attention nation wide which prompted the Bihar State Human Rights Commission to step in and the Commission immediately sprang into action. Thereafter vide order dated 22.05.2019 reports were called for from the then District Magistrate, Superintendent of Police, Deputy Superintendent of Police, Sitamarhi and the then S.H.O. Dumra P.S. Sitamarhi besides also directing the present District Magistrate and Superintendent of Police, Sitamarhi and Home Department of Government of Bihar to file their reports separately latest by 22.07.2019.
- The reports did not reach on the dates so fixed. Taking serious note of the casual approach of the authorities, who had been directed to

submit their responses, the Commission issued show cause notices to them directing them to submit explanations as to why the reports were not filed on time.

- Immediately thereafter reports from the concerned authorities were received in the following order,
 - Report dated 03.06.2019 from the present Superintendent of Police, Sitamarhi (placed at pages 29-28/C)
 - Report dated 04.06.2019 from SDPO Sitamarhi Sadar (placed at Page 30/C)
 - Report dated 10.06.2019 from Principal Secretary, Department of Home, Govt. Of Bihar (placed at Page 34/C)
 - Report from the then S.P., Sitamarhi, Shri Amarkesh D (placed at 71-69/C)
 - Subsequent report dated 14.09.2019 from the present S.P., Sitamarhi regarding action taken against the erring police officials and producing photocopy of the post mortem report (placed at pages 80-77/C)
 - Report received from D.M., Sitamarhi dated 25.06.2019 (placed at page 59/C)
 - Report regarding financial status of families of both the deceased from the Circle Officer, Kalyanpur, Motihari dated 30.08.2019 (placed at page 72/C).

FINDINGS ON THE REPORTS SUBMITTED

- The reports reveal the facts enumerated hereunder:-
 - I. A police party led by the then S.H.O. Dumra Police Station, namely, Chandra Bhushan Singh, S.I., arrested the aforesaid two suspected criminals in the night of 05.03.2019 from their village Ramdiha, P.S. Chakia, District- East Champaran at Motihari and brought them to Dumra P.S. in Sitamarhi District in the morning of 06.03.2019 at 5 A.M.

- II.** The police (raiding) party, as reported by DIG, Tirhut Range, Muzaffarpur comprised the police personnel, namely, SI Chandra Bhushan Singh, the then S.H.O Dumra P.S., SI Soni Kumari, ASI Arun Kumar, Amit Kumar (Constable No. 614), Munna Kumar (Constable No. 110), Pankaj Kumar (Constable No. 508) and Ravi Raj (Constable No. 601).
- III.** The aforesaid police personnel led by the then S.H.O. Chandra Bhushan Singh meted brutal treatment to aforesaid two suspected accused persons, namely, Md. Gufran Alam and Md. Tasleem Ansari in the lock up of Dumra P.S., Sitamarhi.
- IV.** At 2:54 P.M. the condition of two arrested persons worsened, the then S.H.O. Dumra P.S., Chandra Bhushan Singh, S.I. with police force took them to Sadar Hospital, Sitamarhi, where in the course of treatment; they died at 5.00 P.M. on 06.03.2019.
- V.** Manowar Ali, father of deceased Md. Gufran Alam (30 years), filed a written report on the basis of which Dumra P.S. Case No. 91/2019 dated 07.03.2019 under Section 302/34 IPC was registered against the then S.H.O. Chandra Bhushan Singh and all other police personnel as mentioned in sub-paragraph no. II herein above.
- VI.** The aforesaid case was directly supervised by the D.I.G., Tirhut Range, Muzaffarpur and the case was found true against all the police personnel named in the F.I.R.
- VII.** The report of the S.P., Sitamarhi reveals that the then S.H.O. Dumra P.S., Chandra Bhushan Kumar Singh, SI Soni Kumari, Munna Kumar (Constable No. 110), Ravi Raj (Constable No. 601) and Pankaj Kumar (Constable No. 508) are in judicial custody.
- VIII.** ASI Arun Kumar and Amit Kumar (Constable No. 614) have been absconding and as such proceedings under Section 82 and 83 of CrPC, 1973 have been executed against them.

- IX.** Amit Kumar (Constable No. 614), Munna Kumar (Constable No. 110) have been dismissed from service vide Sitamarhi District Order No. 679/19 and 678/19 respectively.
- X.** Ravi Raj (Constable No. 601) and Pankaj Kumar (Constable No. 508) have also been dismissed from service vide Buxar District Order Nos. 814/19 and 813/19, respectively.
- XI.** Against the then S.H.O, Dumra P.S., Chandra Bhushan Kumar Singh, S.I., Soni Kumari, S.I and Arun Kumar, A.S.I departmental proceedings have been initiated.
- XII.** The report of the then S.P., Sitamarhi, Shri Amarkesh D evinces the following facts,
- The entire post mortem proceedings were video graphed in terms of NHRC guidelines.
 - The post-mortem was done by a board of three doctors constituted by the order of Civil Surgeon, Sitamarhi.
 - Viscera of both the deceased persons were preserved and sent to FSL for FSL Report.
 - In terms of NHRC guidelines Magisterial Enquiry was requested and which is being done by the Learned Judicial Magistrate, Sitamarhi
 - On 06.03.2019 all the accused police personnel were immediately put under suspension.
 - On 07.03.2019 Dumra P.S. Case No. 91/2019 was registered against all the erring police officials under Section 302/34 of IPC on the written report of Manowar Ali, father of deceased Md. Gufran Alam. After investigation and supervision, police has found the case to be true against the erring police officers under sections 302/323/34/120B IPC and the matter is pending before a competent Court for trial.
 - The National Human Rights Commission was informed.

- Before he could take any further action, he was transferred to Patna on 08.03.2019.

Thus, it appears that then S.P. Sitamarhi, Shri Amarkesh D acted with due promptitude and alacrity and took all possible measures against the erring police officials of Dumra P.S. in terms of the extant rules, provisions of law and NHRC guidelines.

XIII. The report also shows that the deceased Md. Tasleem was chargesheeted accused in the following cases,

1. Motihari Kalyanpur P.S. Case No. 105/08 dated 29.08.08 u/S 25(1b)(A), 26 and 35 of Arms Act.
2. Motihari Chakia P.S. Case No. 116/04 dated 12.10.2004 u/S 364(A) IPC
3. Muzaffarpur Sahebganj P.S. Case No. 216/2017 dated 28.07.2017 under Sections 414 IPC, 25(1b)(A), 26(ii), 35 of the Arms Act.
4. Muzaffarpur Sahebganj P.S. Case No. 205/2017 dated 15.07.2017 u/S 302/34 IPC and 27 Arms Act
5. Also suspected to be associate of dreaded criminal Mukesh Pathak.
6. Deceased Md. Gufran Alam was said to be associate of deceased Md. Tasleem Ansari.

XIV. Post mortem report duly signed by a board of three doctors which conducted post mortem reveals the following injuries,

- Md Guran Alam, aged about 30 Years,
External Findings- Both eyes closed, mouth closed, bruises over both thighs sized 6" x 2", 3" x 2" on buttock. Abrasion on both legs sized 2" x 1".

Internal Findings- On opening of the skull cranium intact brain matter congested. Opening of neck (NAD), opening of thorax- thoracic case intact, both lungs intact and congested, heart sized enlarged. Chambers filled with dark blood.

The cause of death could not be ascertained, hence, viscera preserved.

Above noted injuries caused by **hard and blunt object**.

- Md. Tasleem Ansari, Aged about 35 Years

External Findings- Both eyes closed, mouth closed, abrasion over right leg below knee sized 2" x 1"- bruises over right arm sized 3" x 1", 2" x 1"- abrasion over right thigh sized 4"- intracath on left wrist.

Internal Findings- On opening of the skull cranium intact brain matter congested. Opening of neck (NAD), opening of thorax- thoracic case intact, both lungs intact and congested, heart sized enlarged. Chambers filled with dark blood. ...

The cause of death could not be ascertained, hence, viscera preserved.

Above noted injuries caused by **hard and blunt object**.

- Viscera report from the FSL has yet not been received.
- Magisterial enquiry report is still awaited.

RECOMENDATIONS

"Tears shed for the accused are traditional and trendy but has the law none for the victim of the crime, the unknown martyrs", remark by Hon'ble Justice V.K. Krishna Iyer aptly described the plight of victims, who are almost a forgotten entity in the criminal justice system.

The term “victim” is defined in Code of Criminal Procedure, 1973_in Section 2(wa) and victim means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir.

In this mater, both the deceased Md. Gufran Alam and Md. Tasleem Ansari, though being suspected of crime, has human rights available to them but was brutally and inhumanly tortured and beaten in police custody causing such injuries which ultimately proved fatal and they succumbed to the injuries in the course of treatment.

Meting cruel treatment to any person suspected of committing any crime, in the name of maintaining law and order and in the name of detection and deterrence of crime, can never be tolerated in the civilised world. Custodial death is a crime and such incidents indicate the “apparent disdain” of the State to life and liberty of any person so detained and if this right to have a fair treatment is taken away then the fundamental right to life and personal liberty as enshrined in the Constitution of India would be nothing but a dead letter.

The manner in which the two deceased persons were meted out treatment at the hands of the police, the law enforcing and the crime detecting agencies is simply unacceptable and must be dealt with iron hands so as to give a message loud and clear to all without any exception that howsoever high and mighty you be, you have to act in consonance with the constitutional and statutory provisions in vogue and nobody would be above the law, the moment you take law into your hands and conduct yourself in the manner alien to the established procedure, you have to face the rigors of law and to invite the risk of chances of maintaining of family of the victim of such a raw treatment.

Untimely demise of any person is very painful to the family of such unfortunate persons and if such demise is attributable to the law enforcing agencies then it becomes graver and entails very serious consequences for the person or authorities responsible for such untimely demise.

In the case at hand two young persons, in the prime of their youth, were done to death in the name of detection of a crime by the police personnel is a dastardly act which must not only be condemned but be seriously dealt with so as to act as a deterrent to erring officials and at the same time to provide and extend all possible help to bring solace to the family of bereaved.

The deaths of Md. Gufran Alam and Md. Tasleem Ansari owing to torture and police custody and makes the state responsible for the omissions and commissions of police personnel and as such it becomes bounden duty of the state not only to assuage the feeling families of custodial victims but also to extend all possible help to such families which could, in some way, provide and compensate for their loss. The responsibility of the state becomes greater in the present case because the perpetrators of this heinous crime are men in uniform upon whose shoulders rests the safety and security of society at large. The barbaric act of the police personnel in taking away life of those two young persons in a manner unknown to the cannons of justice and law is simply a stigma and scar on the face of state which claims itself to be *“by the people, for the people and of the people”*.

The commission finds and holds that the D.M. and S.P., Sitamarhi being the highest administrative and police authorities of the district are not at fault and are no way involved in this crime against the society and as such they are absolved of the charges, if any, in this matter. However, the Commission observes and cautions them that they should be extra vigilant and extra careful and should not let any incident of such nature happen within their

jurisdiction and they must endeavour, in an all out manner, to restore the faith of people at large in the administrative machinery.

The emotional and psychological scars and trauma, these two families of the two deceased persons have been facing is simply indescribable and it cannot be compensated in any manner. However, the compensation, considering their plight would only be a solacing material which would help them in tide over the crisis, they have been made to face, thus the Commission comes to a stand that great injustice has been done to the two victims and as such their families deserve to be adequately compensated.

Report regarding financial conditions of both the families of deceased, from the Circle Officer, Kalyanpur, Motihari reads as follows:

- I. Md. Taslim, aged 35 Years is the son of Md Mulazim is a resident of village Ramdiha, P.S. Chakia, District-East Champaran at Motihari. He is unmarried. His parents are dependent on the income of his brothers who are labourers i.e. his parents are poor. His house is made of burnt clay tiled roofs- which shows that the family is extremely poor and destitute.
- II. Md Gufran Alam, age 27 years approx, son of Manowar Ali, village Ramdiha, P.S. Chakia, District- East Champaran at Motihari has a wife and two kids who were solely dependent on him.

From the above two points its appears that a compensation of rupees five lakhs (Rs. 5,00,000) to Md. Tasleem Ansari and rupees Seven Lakhs (Rs. 7,00,000) to Md. Gufran Alam would meet the ends of justice. The said amount is directed to be paid to the parents of Md. Tasleem Ansari and to the wife of Md. Gufran Alam within a period of six weeks from the date of this recommendation.

Let a copy of this order be sent to 1. The Principal Secretary to the Chief Minister, Bihar, 2. D.G.P. Bihar, 3. Principal Secretary, Department of

Home, Govt. Of Bihar, Patna 4. I.G./D.I.G, Tirhut Range, Muzaffarpur, 5. D.M. Sitamarhi & East Champaran at Motihari, 6. S.P., Sitamarhi and East Champaran at Motihari, 7 Dy. S.P. Sitamarhi as well as to the families of both the deceased through their concerned District Magistrate for information and necessary compliance.

Further a compliance report must be submitted by 07.11.2019.

List it on 15.11.2019

(UJJWAL KUMAR DUBEY)
Acting Chairman
Bihar Human Rights Commission,
Patna