

Custodial death of a dalit personnel - Jail authority is enjoying full impunity

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The Chairperson
National Human Rights Commission
Manav Adhikar Bhawan
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Respected Sir,

Here I want to draw your kind attention upon one incident of custodial death of one young boy from Scheduled Caste community in Jail custody at Kalyani Sub Correctional Home. This incident again proves that how the jail authority is enjoying full impunity even after being responsible for a custodial death of a victim and irresponsible attitude towards the family members of the victim.

In this incident the victim was falsely charged in a case of theft in the house of Dr. Tapas Das on 03.12.2019. He was arrested on 15.01.2020 at about 3 am from his own house by police personnel of Kalayani Police Station. From Police custody he was transferred to Jail custody on 21.01.2020 after the Chief Judicial Magistrate, Kalyani gave such order. He was found dead in his cell after 33 days of his arrest. In the following fact finding I'll narrate how these police personnel along with medical officers tampered their reports and findings for their impunity.

It is alleged that the jail authority did not take the victim to the hospital for medical treatment in time hence causing the death. His family was not informed when his health condition deteriorated and even after his death. The family members were informed after 7 hours of the death of the victim. Kalyani Police Station initiated an unnatural death case (case number 93/2020 dated 18.02.2020). Even inquest was done by one Sub Inspector of Kalyani Police Station namely Prasenjit Das which is a complete violation of section 176 (1A) of the Code of Criminal Procedure where it is stated in case of custodial death, inquest should be done by a Judicial Magistrate.

It is to be noted that on 23.01.2020 Supreme Court of India issued notice to the Centre and States on implementation of section 176 (1A) by human rights activist Suhas Chakma, but that has not been implemented in actual. The matter is of grave concern, which proves the collapse of Criminal Justice System in the State of West Bengal.

The involved perpetrators violated the basic premise of Article 21 of Indian Constitution as well as the international obligations stated in Article 6 (1) and 7 of International Covenant on Civil and Political Rights as well as the Goal number 8 and 16 of Sustainable Development Goal earmarked by United Nations and in both these international instruments; the government of India is a party and have agreement.

I am appending a brief account of the incident for your easy reference and demand for –

- An urgent and independent investigation, not by Kalyani Police Station, over the incident.
- The erring police personnel of Kalyani Sub Correctional Home, and other police personnel related to this case who tried to hide the truth of the case must be booked under appropriate legal provisions and be tried in open court of law.
- The Unnatural Death case initiated by Kalyani Police Station on 18.02.2020 must be investigated properly under the appropriate penal provision.

- This case should be investigated by investigation wing of NHRC or state CID.
- Disciplinary action should be taken against those police officials who being known this case as a custodial death, not to inform any judicial magistrate and ordered to do inquest of the victim's body by an Sub Inspector of Kalyani Police Station.
- NHRC's 'Revised Guidelines/ Procedures to be followed in courses of deaths caused in police action' must be adhered in letter and spirit.
- The family must be provided with financial compensation and adequate safety and security of the family members and witnesses must be ensured.

Sincerely Yours

Dipyaman Adhikary
Assistant Secretary

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Details of the victim- Mr. Bosu Das, son of Late Monoranjan Das, aged about 22 years, occupation- Driver whose monthly income Rs.5000/-, Religion- Hindu, by caste Schedule Caste, resided at Majher Char (Ward number 06) under Kalyani Municipality, Police Station- Kalyani, District- Nadia.

Details of secondary victims- (1) Ms. Rasamati Das, aged about 68 years, mother of the victim; (2) Ms. Anima Das, aged about 20 years, wife of the victim; (3) Mr. Shyam Das, aged about 42 years, brother of the victim; (4) Ms. Swapna Das, aged about 38 years, wife of Mr. Shyam Das; (5) Mr. Jagat Das, aged about 37 years, brother of the victim; (6) Ms. Namita Das, aged about 32 yaers, wife of Mr. Jagat Das; (7) Mr. Basu Das, aged about 30 years, brother of the victim; (8) Ms. Ruma Das, aged about 28 years, wife of Mr. Basu Das; (9) Ms. Sabitri Das, aged about 40 years, sister in law of the victim; all are residing at Majher Char (Ward number 06) under Kalyani Municipality, Police Station- Kalyani, District- Nadia.

Details of Perpetrators – (1) On duty police personnel of Kalyani Sub Correctional Home; (2) 8-9 police personnel of Kalyani Police Station who arrested the victim on 15.01.2020 and Investigation officer of the case bearing no. Kalyani Police Station Case number 533/19 dated 03.12.2019

Date and Time of the Incident – On 15.01.2019 and subsequent thereafter at about 3 pm

Place of arrest – From his own house of the victim when he was sleeping after taking his lunch.

Details of incident- On 15.01.2020 at about 3 pm Mr. Bosu Das, a 22-years old youth was arrested by the police personnel of Kalyani Police Station from the house of the victim. Kalyani Police arrested the victim on suspicion that he was somehow connected in a theft case in the house of Doctor Tapas Das bearing Kalyani Police station case number 533/2019 dated 03.12.2019.

Family members of the victim told to our fact finding team that 8/9 police personnel of Kalyani Police station in a white Tata Sumo car came in front of them when Mr. Bosu was sleeping at about 3 pm on the said day. They called the victim and told to the family members that he has to be taken to the Kalyani Police station for asking some question regarding the theft case in Doctor Tapas Roy's house. They took the victim to the Kalyani Police station. It is mentioned that during the time of taking the victim to the Kalyani Police station, Police did not make any memo of arrest and the family members did not sign upon any memo of arrest.

At about 5 pm when the family members went to Kalyani Police Station to meet with the victim, police did not permit the family members to meet with Mr. Bosu. Family members of the victim informed us that the Investigating Police Officer of the Kalyani Police Station case number 533/2019, demanded Rs. 20,000/- from them for releasing the victim but they didn't have the said amount of money to give to the officer.

On 16.01.2020 the victim was produced before the Chief Judicial Magistrate of Kalyani Court where on the request of the prosecution, Chief Judicial Magistrate granted 4 days police custody of the victim. During the time of police custody, the family members of the victim were pressurized by the police personnel of Kalyani Police Station for huge amount of

money. Sometime they demanded Rs. 60,000/- and sometime Rs. 40,000/- for release of the victim but as the family members are very poor they could not collect such amount of money. On 20.01.2020 Mr. Bosu was again produced before the Court of Chief Judicial Magistrate, Kalyani. Magistrate directed to send the victim to Jail custody. Mr. Bosu was taken to Kalyani Sub Correctional Home on the said day. On 17.02.2020 his bail prayer was rejected by the Chief Judicial Magistrate, Kalyani.

In Kalyani Sub Correctional Home every day the family members of the victim used to meet with him. They informed that they never saw any irregularities in his behavior even no marks of injury were seen and the victim talked with them normally. On 17.02.2020 in the evening his family members went to see Mr. Bosu to the Sub Correctional Home, Kalyani and the victim talked with them normally but on the next day at about 1.30 pm the family members were informed that Mr. Bosu was dead.

The version of the Correctional Home authority is on 18.02.2020 at about 6 am Mr. Bosu's health condition deteriorated. His whole body was shivering. Watching him distressed, the other prisoners cried for help. The jail authority took the victim to Kalyani Jawaharlal Nehru Memorial Hospital but the doctor declared the victim as dead.

Surprisingly, the victim's health condition deteriorated at about 6 am and after some time he died and doctor declared him dead but the jail authority did not inform the victim's family about the death of Mr. Bosu Das. Family members of the victim told to our fact finding team that at about 1.00 pm two police personnel came to their house and told Bosu's mother to put a signature on a paper. Even at that time the family members were not informed about the death of Bosu but when his mother did not agree to sign the paper, then those police personnel informed them that the victim Mr. Bosu was dead. Hearing the news the mother of the victims fainted in shock.

At that time two brothers of the victim rushed to Kalyani Jaharlal Nehru Memorial Hospital and saw the victim's body kept in the morgue of the said hospital. At about 2 pm one Sub Inspector of Kalyani Police Station namely Mr. Prasenjit Das came for inquest of the victim's body at the morgue. This also violated the general rule that inquest will be done where the victim was declared dead but in this case inquest of the victim's body was done after 8 hours of declaration of death by doctor and at a different place than where the victim was declared dead.

Section 176(1A) of Code of Criminal Procedure clearly stipulates that in case of Custodial death Judicial Magistrate will inquest the body, but here administration failed to follow the procedure.

Kalyani Police started an Unnatural Death case bearing Kalyani Police Station U/D case number 93/2020 dated 18.02.2020 in respect of the custodial death of Mr. Bosu Das.

More surprisingly, the dead body of the victim was kept in the morgue of Kalyani Jaharlal Nehru Memorial Hospital for 33 hours after the victim's death. Hospital authority told that there was lack of autopsy surgeon in their hospital and therefore the post mortem was not possible on that day. Next day i.e, on 19.02.2020 at about 3 pm post mortem examination of the deceased victim was done in the morgue of Kalyani Jaharlal Nehru Memorial Hospital.

After spreading the news of custodial death of Mr. Bosu his family members and local neighbors showed protest in front of Kalyani Sub Correctional Home. Agitated people tried to attack upon the irresponsible and careless personnel of Kalyani Sub Correctional Home but the Sub Divisional Officer of Kalyani Mr. Dhiman Barui intervened into this matter and promised an independent, impartial investigation to find out the truth. After that the agitation became blurred but the family members of the victim told if the truth will not be revealed, they will again show protest.

Family members of the victim repeatedly told that the victim was fit and healthy and he had no mental problem but his sudden death in the prison of the Correctional Home is very much suspicious. They demand an impartial investigation and find the truth of Bosu's death and ultimately punish those perpetrators who are directly or indirectly related to the death of the victim.

Before lodging the complaint by the victim's family members, Sub Divisional Magistrate of Kalyani gave assurance that he will investigate the matter properly, but it is a case where a judicial investigation has to be initiated and the SDO, Kalyani without maintaining the provisions of law confused the family members with false assurances.

Attached Documents



Picture of victim



News paper cutting