

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL WRIT PETITION NO.39 OF 2015**

1. Narayan S/o. Purbhaji Bhukatare,      **..Petitioners**  
Age-65 years, Occu-Nil,
2. Yesodabai W/o. Narayan Bhukatare,  
Age-60 years, Occu-Household,
3. Akshra D/o. Pravin Bhukatare,  
Age-2 years, (u/g petitioner No.1,  
who is real grandfather Narayan  
Purbhaji Bhukatare)  
All R/o. Pawadewadi,  
Tq. & Dist. Nanded.

**VERSUS**

1. The State of Maharashtra,  
through, Secretary of Home  
Department, Mantralaya, Mumbai      **..Respondents**
2. Superintendent of Police,  
S.P. Office, Nanded
3. Superintendent of State Criminal  
Investigation Department,  
State Criminal Investigation Department,  
Sneha Nagar, Aurangabad
4. Deputy Superintendent of State Criminal  
Investigation Department, S.P. Office, Nanded
5. Police Inspector,  
Vajirabad Police Station,  
Dist. Nanded

6. Police Inspector,  
Vimantal Police Station,  
Dist. Nanded

Mrs.M.R.Jamdhade, Advocate for the petitioners  
Mr.A.B.Girase, APP for the respondent/ State

**CORAM : A.V.NIRGUDE &  
A.I.S.CHEEMA, JJ.**  
**DATED : 04.07.2016**

**P.C. :-**

1. The petitioners are next of kins one Pravin who met with unnatural death on 28.09.2013 while he was in police lockup of Vajirabad Police Station, Nanded. This incident prompted this Court to facts-finding-enquiry through learned C.J.M., Nanded who submitted a report suggesting that Pravin probably committed suicide.

2. We perused the report as well as other papers including the post-mortem report. We found as many as ten external injuries on Pravins's body. The cause of death was said to be injuries to head and cervical spine. We have our own doubt about the theory of suicide. We are certain that there is some foul play in the event of Pravin's death.

3. The question is whether the State of Maharashtra should pay compensation to the petitioners, who are

parents and daughter of the deceased. This subject is discussed at the length in the celebrity judgment in the case of Nilabai Behra (Smt) Alis Lalita Behra (Through the Supreme Court Legal Aid Committee) Vs. State of Orissa, (1993)2 SCC 746. The Supreme Court held that Article 226 of the Constitution of India provides remedy in public law to persons like the petitioners here. The Supreme Court also indicated that if a person dies while he was in police custody, it can be held that his fundamental right to life was contravened. The Supreme Court also indicated that the State cannot raise a defence based on sovereign immunity. In addition to remedy under public law, victim's next of kins are also entitled to compensation in private law (Tort). Since this judgment, several similar cases came before several Courts and the law is now settled. Without going into the question about criminal *mens-rea*, the High Court is able to award compensation under Article 226 of the Constitution of India to the victim's next of kins.

4. In the facts and circumstances of this case including age and occupation of Pravin we award compensation of Rs.7,00,000/- (Rupees Seven Lac) to the petitioners. This amount shall be divided amongst the petitioners in following manner.

(i) The amount shall be deposited in District Court, Nanded within four weeks.

(ii) Rs.5,00,000/- (Rupees Five Lac) out of the said amount shall be invested in a fixed deposit in any Nationalized bank at Nanded in the name of Petitioner No.3-Akshra D/o. Pravin Bhukatare till she would attain the age of majority. The District Judge, Nanded shall allow withdrawal of 50% of interest periodically for her maintenance.

(iii) Remaining amount shall be disbursed to petitioner Nos.1 and 2 equally.

5. The petitioners are also at liberty to pursue other remedies that are available in law for prosecuting their case in criminal as well as civil side.

6. The amount ordered shall be recovered from the Investigating Officer/in-charge at the relevant time in Crime No.104 of 2013, Vimantal Police Station, Nanded. The State shall also pay costs of this petition to the petitioners.

(5)

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7. In view of this the Criminal Writ Petition stands allowed and disposed of accordingly.

**[A.I.S.CHEEMA, J.]**

**[A.V.NIRGUDE, J.]**

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