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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1598/2018 and CRL.M.A. Nos. 9821/2018 & 32919/2018**

JAGDISH CHAND PANDEY

..... Petitioner

Through: Ms Supriya Juneja and Ms Akanksha Mehta, Advocates.

versus

STATE OF NCT DELHI & ORS

..... Respondents

Through: Mr Piyush Singhal, Advocate for Mr Ashish Aggarwal, ASC for State.
Inspector K.K. Mishra, PS Uttam Nagar.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **22.01.2020**

1. The petitioner has filed the present petition, *inter alia*, praying that the investigation in relation to FIR bearing no. 498/2017 under Sections 328/304 of the IPC, registered with Police Station Uttam Nagar be transferred to CBI or any other special agency.
2. The petitioner has also prayed that a medical board of toxicology Expert Doctors of AIIMS be constituted for re-examination of the viscera report and the articles of the deceased, and give their opinion regarding occurrence of the death.
3. The petitioner's son expired on 25.07.2017. An FIR in this regard (FIR No. 498/2017 under Sections 328/304 of the IPC) was registered. The said FIR was registered on a statement made by one Chitwan Luthar. He had stated that he along with the deceased and another classmate had worked the

whole night of 24-25.07.2017 and in the morning had gone for swimming. He had stated that thereafter, the deceased had called one Jugal Kishor @ John, who resides in Uttam nagar and stated that he often takes drugs with him. He stated that thereafter, at the insistence of the deceased he had accompanied the deceased to John's place. His other friends Jaspreet and Chitwan, also joined them. It is alleged that thereafter, they had injected certain intoxicants/drugs. According to his testimony, the deceased had reacted to the said drugs. While returning, he had noticed that the deceased was finding it difficult to breathe and froth was coming out of his mouth and nose and thereafter, he had brought the deceased to MKW Hospital, where the deceased was declared dead.

4. The petitioner alleged that the investigation has not been properly done inasmuch as, the necessary forensic investigation to ascertain the drug used had not been done. It is also contended that there are recorded conversations available in the mobile phone of the deceased, which are relevant to the case.

5. The learned counsel appearing for the petitioner further submits that two of the friends, who were present on the date of incident, had been made prosecution witnesses instead of adding them as accused as they were also involved in the incident.

6. In view of the averments made in the petition, this Court had, by an order dated 08.08.2019, directed that viscera samples of the deceased be sent to CFSL, CBI and further directed that a report be submitted. In addition, the status report has since been filed enclosing therewith a report received

from CFSL, CBI. The said report indicates that the necessary samples examined did not reveal the presence of any poison/narcotic drugs, as mentioned therein.

7. Insofar as, the conversations recorded in the mobile of the deceased are concerned, the Investigating Officer is directed to analyse the same and if found relevant, make the necessary report and submit the same to the concerned Trial Court.

8. No further orders are required to be passed in the present petition.

9. The petition as well as the pending applications are disposed of.

JANUARY 22, 2020
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VIBHU BAKHRU, J