

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38786 of 2024

Arising Out of PS. Case No.-3 Year-2023 Thana- C.B.I CASE District- Muzaffarpur

Pradeep Kumar son of Late Chhotan Ram Village- Naya Gaon W.No-6, Ps
Dist- Saran Chapra

... .. Petitioner/s

Versus

The Central Bureau of Investigation through its Additional Superintendent of
Police, HOB CBL SCB Pa Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Singh, Sr. Advocate
	:	Mr. Rudrak Shivam Singh, Advocate
	:	Mr. Praveen Kumar, Advocate
For the CBI	:	Ms. Nivedita Nirvikar, Sr. Advocate
	:	Mr. Pravin Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 12-11-2024

Yet another custodial death. Yet an innocent (*he was a suspect and not convict*) lost his life and the family was deprived of one of its member. The British legacy continues even 77 years after they left the country.

2. One Rajnath Sharma (since deceased) was picked up on 07.06.2021 by the Police in connection with **Kateya P.S. Case No.189 of 2021** lodged under Section 302 and 201 of the Indian Penal Code. On the same day, (07.06.2021) another case vide **Kateya P.S. Case No. 190 of 2021** was lodged by the ‘**Chowkidar**’ of the said Police Station namely Parshuram Paswan alleging that in the garb of attending nature’s call, Rajnath Sharma escaped.



3. The **Station Head Officer**, Kateya P.S. namely **Suman Kumar Mishra** assigned the job of investigation of the Kateya P.S. Case No. 190 of 2021 to this petitioner who was posted in the same Police Station.

4. The Police thereafter sought an arrest warrant from the court on 08.06.2021 in connection with the second case. This followed another requisition on 17.08.2021 and thereafter on 17.05.2022. From the records, it is clear that once the alleged accused (Rajnath Sharma, deceased) escaped, the Police did absolutely nothing/conducted any raid to ensure that he is taken into custody rather was doing the formalities of submitting petition for an arrest warrant from the concerned court.

5. In between, on 11.05.2022, **CWJC No.535 of 2022** was filed by the brother of Rajnath Sharma namely **Dhanraj Kumar** before the Patna High Court in which the Division Bench considering the seriousness of the matter, on **06.02.2023**, it handed over the files of both the Kateya P.S. Case No.189 of 2021 as well as Kateya P.S. Case No. 190 of 2021 cases to the **Central Bureau of Investigation** (henceforth for short 'the CBI').

6. 'The CBI' registered the case vide **CBI/SCB Patna arising out of P.S. Case No. RC092202350003 of 2023** for the offences punishable under Sections 224, 216, 120(B)/34, 302, 201, 202, 203, 217, 218 and 331 of the Indian Penal Code,



lodged on 02.03.2023.

7. 'The CBI' investigated the matter and came to the conclusion that Rajnath Sharma was tortured to death by the Police including the petitioner on 07.06.2021 itself and the dead body was burnt on the bank of Ghurna Kund Temple at about 03:00 AM-05:00 AM on 08.06.2024 and a false case was lodged vide Kateya P.S. Case No.190 of 2021 against him.

8. As stated, the petitioner was the Investigating Officer of the second case relating to disappearance of Rajnath Sharma. However, once 'the CBI' interrogated him, he spilled the beans. It was after his statement made under section 164 of the Cr.P.C. that 'the CBI' virtually unearthed the entire sequence of events leading to the tortured death as also disposal of dead body of Rajnath Sharma near the Ghurna Kund Temple on the bank of river.

9. Mr. Sanjay Singh, learned Senior Counsel appeared for the petitioner while learned counsel, Mr. Pravin Kumar is representing the Central Bureau of Investigation.

10. An innocent person who was suspect in a criminal case lodged was taken into custody, not produced before any Judicial Officer, allegedly beaten to death in Police custody whereafter the Police ensured disposal of the dead body. Adding insult to the injuries, the dead person was slapped with another criminal case of having escaped while in the Police custody.



11. The Police has been assigned the duty of protecting the public/citizen whose money they receive as salaries but turn themselves as a predator. Once a custodial death takes place, a false narrative is floated that the accused escaped, instead of searching him, arrest warrant is repeatedly sought for. Once the Division Bench of Patna High Court stepped in and handed over the matter to 'the CBI' that, the facts came to the light. The petitioner being posted in the same Police Station who was also made Investigating Officer in second case cannot escape responsibility of having failed to protect an innocent person. He is actually responsible alongwith other Police officials posted in the said Kateya Police Station for the alleged custodial death.

12. This becomes evident from the fact that as per the Police theory, Rajnath Sharma, allegedly escaped while in Police Custody. In that circumstances, under Section 60 of the Cr.P.C., the petitioner who was the Investigating Officer should not have waited for any arrest warrant.

13. **Section 60 of the Code of Criminal Procedure.**
read as follows:

“60 – Power, on escape, to pursue and re-take.

(1) If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in India.



2. The provision of Section 47 shall apply to arrests under Section (1) although the person making any such arrest is not acting under a warrant and is not a Police Officer having authority to arrest.

14. The repeated request petition for warrant of arrest was only to hoodwink the Court.

15. Thus, to sum up, this Court is of the opinion the accused despite donning the uniform to protect the innocent was/were the cause for his death/disappearance of body.

16. However, having narrated the entire facts showing the petitioner as also the other Police Officials of Kateya P.S. responsible for the act, this Court has taken into account the counter affidavit filed by 'the CBI' duly signed by the Inspector of Police, Special Crime Branch, CBI, Patna in which in paragraph 6, the following facts have been incorporated:-

(Para 6)

(i) In reply to the averment made in para 01, it is submitted that the FIR was registered as RC 092202350003 u/s 224/216 of IPC. On the basis of evidence collected during the course of investigation, charge sheet was filed against 6 accused persons including the petitioner.

(ii) In reply to paras 02 to 06, it is submitted that the averment made in this para are matter of record hence comment is not required.



(iii) In reply to averment made in para 07, it is submitted that charge sheet was filed against the petitioner on the basis of evidences collected during the course of investigation.

(iv) In reply to averment made in para 08, it is submitted that the petitioner was not the IO of Case NO. 189/21 of Kateya PS. The petitioner along with Kateya PS team had arrested the accused person.

(v) In reply to averment made in para 09, it is submitted that Charge sheet has also been filed against Chaukidar Parshuram Paswan.

(vi) In reply to the averment made in para 10, it is true that the petitioner got recorded his statement u/s 164 of Cr.PC, 1973 in which he has elaborated the actual facts of this case.

(vii) In reply to the averment made in paras 11 to 13, it is submitted that the petitioner and others had beaten accused Rajnath Sharma and they disposed off his dead body. Charge sheet was filed against the petitioner and others on the basis of evidence collected during the course of investigation.

(viii) In reply to the averment made in para 14, it is submitted that the petitioner has co-operated in investigation which helped CBI in solving the case.



(ix) In reply to para 15, it is submitted that the averment made in this para, is submission of the petitioner hence comment is not required.

(x) In reply to the averment made in para 16, it is submitted that this is matter of record hence comment is not required.

17. From the said paragraph 6 of the counter affidavit, the facts that emerges is/are that:

i. the petitioner made statement under section 164 of the Cr.P.C. accepting to the custodial death of Rajnath Sharma and disposal of the dead body;

ii. further, it was on his statement under section 164 of the Cr.P.C. that the entire facts came to light and the Officials of the Central Bureau of Investigation was able to crack the case;

iii. the petitioner cooperated in the investigation;

iv. the charge sheet has already been submitted in the matter;

v. the petitioner is in custody since 17.10.2023;

vi. has no criminal antecedent;

vii. it has been undertaken by the learned Senior counsel that if granted bail, he shall be diligently appearing in trial.

18. Taking into account the aforesaid facts, particularly



that he cooperated in the investigation which led to unearthing of the entire case, has remained in custody for more than a year, charge sheet stands submitted, this Court is inclined to extend the privilege of bail to the petitioner with conditions.

19. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Special Judge, Central Bureau of Investigation, Muzaffarpur, in connection with CBI/SCB Patna arising out of P.S. Case No. RC092202350003 of 2023, subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the office of the Senior Superintendent of Police, Muzaffarpur every month for next one year to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail



bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for the cancellation of bail bonds;

(vi) in case, he is holder of Indian passport, the same has to be surrendered at the time of execution of bail bonds. In absence of it, the petitioner shall submit an affidavit that he does not hold passport in his name.

20. Before parting, a word for the Police Officials. The Government has created the posts of the Police Force to protect the citizen and the payments they receive as salaries comes from the public who pay direct/indirect taxes. They must realize that no one in this country are above the law and can in no way act in violation of the rules/regulations envisaged under the law. Any illegal act committed by them will result into Civil/Criminal proceedings against him/her which they will face and will ultimately make their respective families sufferer.

21. The order cannot be come to an end without another word for the family who lost one of their member. Upon query, as to whether the family of Rajnath Sharma has been extended any compensation by the State or not for the admitted custodial death, both the learned counsels for the petitioner as also 'the CBI' have



no answer.

22. A family has lost their member and the said loss cannot be compensated. The least that the State can do is to pay the compensation to the family for its failure to protect the life, if the same has not been extended. The State always has the option to realise the same from the erring official(s).

23. In the aforesaid background, office is directed to resurrect the entire petition/file of the present case along with the present order and the file/order be sent to the **Hon’ble Chairperson, Bihar Human Rights Commission, Patna** forthwith for his perusal/needful.

24. Office must comply the order immediately.

25. List this case under the heading ‘**To Be Mentioned**’ on **29.11.2024** to peruse the compliance report.

(Rajiv Roy, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18.11.2024
Transmission Date	18.11.2024

