

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2024:PHHC:122930-DB



Civil Writ Petition No. 26614 of 2021(O&M)
Date of Decision: 18.09.2024

Yogesh Kataria and anotherPetitioners

versus

State of Haryana and othersRespondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL, JUDGE**

Present : Mr. RS Randhawa, Advocate,
Mr. Anuj Chauhan, Advocate and
Mr. Tarranum Madan, Advocate, for the petitioners.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

Mr. Rohan Moudgil, Advocate for
Mr. Sandeep Sharma, Advocate, for respondent No.2.

Mr. Navkiran Singh, Advocate for the applicant in
CM No. 804-CWP-2022.

SHEEL NAGU, CHIEF JUSTICE (Oral)

CM No. 804-CWP-2022

For the reasons mentioned in the application, the same is allowed and the applicant, namely, Geeta widow of Rajesh, resident of village Vikas Nagar, NFL Panipat, is ordered to be impleaded as respondent No.6 to the petition.

Civil Writ Petition No. 26614-2021 (O&M)

1. This petition has been filed assailing the recommendations made by the Haryana Human Rights Commission vide order dated 05.03.2021 (Annexure P-6), which are to the following effect:-

“12. In view of the facts and circumstances as discussed above and keeping in view the fact that accused

Rajesh, who was arrested in case FIR No. 1273 of 2018 under Sections 364, 395, 302, 120-B, 216 IPC by Inspector Yogesh Kumar suffered an unnatural death due to his detention in CIA-II, Panipat. He at the time of his death was 32-33 years of age having two children. Moreover, after his arrest, he was not produced before the Illaqa Magistrate within 24 hours of his arrest as is the requirement of law. In view of the case law cited above, the Hon'ble Supreme Court and almost every High Court in the country by relying on Article 21 of the Constitution have been thinking it appropriate to grant compensation to the next of the kin/dependents of the deceased who suffered unnatural custodial death. The death of an accused/prisoner in jail/police custody is not a temporary phase but creates a long lasting impact on the lives of the victims family members. In the present case Rajesh accused who was 32-33 years of age, met his tragic end in police custody in CIA-II, Panipat. He was having two children and old parents. We, therefore, recommend the State Government to give a sum of Rs.7,00,000/- (seven lac rupees) as compensation to the next of kin of the deceased/dependent of the deceased Rajesh. But the State Government would be entitled to recover that amount from wrong doers Inspector Yogesh and his accomplices.

13. *In this case also in FIR No. 1317 dated 17.12.2018 under Section 365/302/34 IPC was got registered in Police Station Chandni Bagh, Panipat against Inspector Yogesh and others by Rattan Singh father of deceased Rajesh. Director General of Police Haryana is also directed that besides initiating departmental proceedings against the accused named in the FIR, investigation of the case be also got conducted from a senior police officer having impeccable integrity and character. It may also be mentioned here that any statement made by a person before a Police Officer during criminal investigation exonerating culpability of an accused named in the FIR should not be taken as a hurdle in nailing the perpetrator of a crime. Action taken report in the whole matter be also communicated to the Commission.*

14. *A copy of this order be sent to the Chief Secretary to Government of Haryana to ensure that the amount of compensation is disbursed to the next of kin/dependent of the deceased within eight weeks from the date of passing of this order.”*

2. From the aforesaid it is evident that essentially there were three recommendations made by the Commission, which are to the extent outlined below:-

- i) Rs. 7 lacs be paid by the State Government to the next of the kin of the deceased and the same be recovered from the erring officials (both of them are the petitioners herein);
- ii) Disciplinary proceedings be initiated by the Director General of Police, Haryana against the accused named in the FIR (including the petitioners herein);
- iii) Any statement made during investigation in regard to the culpability of the petitioners and other accused in the FIR should not obstruct the prosecuting agency in nailing the perpetrators of crime in question.

3. However, learned counsel appearing for the State of Haryana by filing a reply has *inter-alia* disclosed that disciplinary proceedings initiated against the petitioners have resulted in exoneration, which fact is not denied by learned counsel for the petitioners. Moreover, with respect to the amount of compensation of Rs.7 lacs, the State counsel informs that the next kin of the deceased person has already been paid the said amount of compensation. The only question remaining is regarding recovery of said amount from the petitioners.

4. It is also informed by learned State counsel that criminal charge-sheet had been filed against the petitioners on 06.12.2022,

alleging offences punishable under Sections 342, 323, 166, 166-A, 166-B read with Section 34 of the Indian Penal Code, 1860. It is not known as to what charges have been framed against the petitioners but the parties do not dispute that at present the trial is in progress.

5. In view of the aforesaid changed circumstances, this Court is of the considered view that the question of recovery of amount of Rs. 7 lacs from the petitioners shall depend upon the fate of the trial. Therefore, recovery proceedings against the petitioners will have to await conclusion of the trial.

6. With regard to the last direction about nailing the culprits, it is made clear that this direction shall not prejudice the rights otherwise available to an accused in the trial.

7. With respect to the quantum of compensation of Rs. 7 lacs, the next kin of the deceased will reserve their right to claim further compensation, if entitled under the law.

8. With these observations, the petition stands disposed of.

9. All the pending applications, if any, also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

18.09.2024
ravinder sharma

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√