

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1287 of 2023

Arising Out of PS. Case No.-702 Year-2022 Thana- AURANGABAD TOWN District-
Aurangabad

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Surendra Prasad S/O Late Ayodhya Prasad, R/O Mohalla- Maranpur,
Hanuman Nagar Near Param Gyan Niketan School, P.S. Bishnupad, Dist.
Gaya

... .. Petitioner/s

Versus

1. The State of Bihar Through The Chief Secretary Govt. , Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The District Magistrate, Aurangabad Bihar
4. The Deputy Inspector General of Police, Magadh Range, Gaya Bihar, Gaya
5. The Superintendent of Police, Aurangabad Bihar
6. The Officer In-Charge, Nagar Police Station, Aurangabad, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Singh, Advocate Mr. Pravin Kumar Sinha, Advocate
For the Respondent/s	:	Md. Nadim Seraj, GP 5 Mr. Iqbal Asif Niazi, AC to GP 5

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 23-01-2025 The married son of the petitioner died on 5th November 2022 at his rented accommodation. On 6th November 2022, the petitioner lodged a written complaint, stating, inter alia, that his son Vishal Ranjan, since deceased used to stay with his wife, namely, Neha Kumari and their minor daughter in a rented accommodation at Aurangabad. The paternal home of the said Neha Kumari is situated at a nearby place of the rented accommodation of the deceased son of the de facto complainant. On 5th November 2022, at about 11:00 AM, Neha Kumari informed the *de facto* complainant that his son Vishal was



admitted to the local hospital. After getting the said information, the informant proceeded towards Aurangabad by his own vehicle. On the way, he was further informed that his son Vishal had expired in the hospital. Neha Kumari also informed the *de facto* complainant that she and her other family members were going to Gaya with the dead body and requested him to come to Gaya. At about 02:13 PM, the elder brother of Neha Kumari, namely, Lalit Kumar informed the *de facto* complainant over phone again to come to Aurangabad. At about 4:51 PM, the informant was informed that the body of the deceased was cremated. Under such circumstances, it was alleged that the wife of his elder son, namely, Neha Kumari, his brother Lalit Kumar and wife of Lalit Kumar committed murder of Vishal and in furtherance of criminal conspiracy and in order to disappear the evidence, he was cremated.

2. On the basis of the said complaint, police registered Aurangabad Town P.S. Case No. 702/2022 under Sections 302/301/34 of the IPC and took up the case for investigation. It is on record that the investigation is still in progress.

3. At this stage, the petitioner has approached the constitutional jurisdiction of this Court under Articles 226 and 227 of the Constitution, alleging, *inter alia*, that the



investigation of the case is not being proceeded with in a proper direction and the I.O. may be directed to conclude the investigation of Aurangabad Nagar P.S. Case No. 702 of 2022 taking coercive action against the named accused persons and submitting charge-sheet against them.

4. Having heard learned counsel appearing on behalf of the petitioner and the learned counsel for the State respondents, it is ascertained that during investigation of the case, the minor daughter of the parties was examined under Section 164 of the CrPC and her statement was recorded. It appears from her statement that the deceased was addicted to alcohol and other drugs. On the night of 4/5th November 2022, while coming to his rented accommodation, he was abusing his wife and child with filthy language. The wife of the deceased informed the matter to his brother and the brother came to the rented accommodation of the deceased and three of them tried to pacify the deceased and bring him to his home. But, he refused to come. Thereafter, the said brother took away the wife and minor daughter of the deceased to his house. On the following day at about 11:00 AM, the minor daughter came to the rented accommodation of the deceased and found him ill. His wife, also came subsequently. On being asked, his wife gave



some water and after taking the water he started vomiting. The son of the informant was taken to the hospital where he was declared “brought dead”.

5. The case diary suggests that the Investigating Officer, who is present in the Court, collected call details report between Neha Kumari and his father-in-law, informant herein, as well as between the brother of Neha Kumari and the informant. The conversation appearing in the call details report does not suggest any allegation of causing murder of the deceased by the petitioner. It is contended on behalf of the petitioner that the named accused persons were not arrested by the police even though their anticipatory bail was rejected.

6. It is absolutely within the domain of the Investigating Officer as to whom he would arrest in connection with an investigation of a case. Court cannot direct under any jurisdiction to the police officer to arrest a particular person in connection with an offence. If the real accused is not arrested and a perfunctory charge-sheet/final report is filed, it is open for the *de facto* complainant to lodge a protest petition before the learned Magistrate. This Court, sitting in plenary jurisdiction under Article 226 of the Constitution, cannot direct the police to arrest the FIR named accused persons.



7. However, the learned Advocate for the petitioner draws my attention to paragraph 194 of the case diary wherein the jurisdictional Superintendent of Police perused the case diary and formulated certain questions for investigation by the I.O. Under such circumstance, I.O. is under obligation to carry investigation on the said points.

8. As a result, the instant writ petition is disposed of, directing the I.O. to make proper investigation in respect of paragraph 194 of the case diary and incorporate the investigation report answering all the questions raised by the Superintendent of Police in the case diary and thereafter, shall proceed in accordance with law.

9. With the above direction, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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