

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.112/CD/2022

Present

1. Mr. Justice Jyotirmay Bhattacharya - Chairperson
2. Mrs. Justice Madhumati Mitra - Member
3. Mr. Naparajit Mukherjee - Member

Superintendent of Police, Bankura sent an email on 16/9/2022 to the effect that on 15/9/2022 around 2100 hrs. one Amrit Bauri (45 years), son of Lt.Badal Bauri, Vill.Gobindadham, P.S.Gangajalghati, Dist-Bankura was detained at Police Station after rescuing him from agitated mob. It was alleged that he had committed sexual assault on one lady aged about 70 years, Vill.Gobindadham, P.S.Gangajalghati. The report stated that Amrit Bauri was in drunken condition and his medical examination was done at the rural hospital. On 16/9/2022 around 15.05 hrs. the victim lady lodged a complaint at Police Station against Amrit Bauri which resulted in registration of Gangajalghati P.S. Case No.134/22 u/s 341/376 IPC dt.16/9/2022. Amrit Bauri, was not placed in the P.S. lockup. He went to attend nature's call in the wash room and there he hanged himself with the help of his towel from the window of the bath room. This was noticed by Lady Constable 1890 Krishna

Das around 15.55 hrs. He was shifted to the rural hospital and the doctors declared him dead. Gangajalghati P.S. U.D. Case No.57 dt.16/09/2022 was started over the death of said Amrit Bauri. Magisterial inquest over the dead body as well as judicial enquiry by Ld. C.J.M. had been requested by the West Bengal Human Rights Commission on 21.09.2022.

2. The West Bengal Human Rights Commission took suo motu cognizance on the matter and called for post mortem report, magisterial inquest report, bed head ticket and injury report as well as enquiry report of Ld. J.M. u/s 176(1A) Cr.P.C.

3. The Superintendent of Police, Bankura, vide his Memo No.6204/E/RC dt.12/10/2022 forwarded an enquiry report by Dy.S.P.(Admn.), Bankura in which he further clarified that the deceased, Amrit Bauri was brought to the Police Station by ASI Ram Udhar Tiwari on 15/9/2022, late evening, as he was R.T. Mobile duty officer. The R.T. mobile officer received telephonic information about some trouble at vill.Gobindadham. He reached the village and found that Amrit Bauri was detained and being heckled by several people, who were alleging that he sexually assaulted a 70 years old lady. The A.S.I. then rescued Amrit Bauri, got him medically examined at the rural hospital. Amrit Bauri was found in drunken condition. Amrit Bauri was brought to the Police Station and placed outside the

lock up of Police Station as till then no FIR had been lodged against him. The report commented that CCTV footage revealed that Amrit Bauri went to the staff bathroom and hanged himself with his towel at the time when the victim lady and her daughter-in-law had arrived to the Police Station for lodging complaint. Lady Constable 1890 Krishna Das and N.V.F. Suchand Murmu found the dead body of Amrit Bauri in the bathroom. Details were captured in the C.C.T.V. footage. This refers to Gangajalghati P.S. U.D. Case No.57/22 dt.16/9/2022. Post mortem was held by F.M.T. department of Bankura Medical College and Hospital No.1134 dt.17/9/2022 and the same was video recorded. The prayer was sent to Ld. CJM, Bankura for conducting judicial enquiry u/s 176(1A) Cr.P.C.

4. The inquest of police under 174 Cr.P.C. revealed signs of hanging while the inquest u/s 176 Cr.P.C. by Executive Magistrate showed that **“there was slight mark around the neck on the front side”**. There were colour patches on the body of deceased and scratch marks on the knees. The Executive Magistrate directed post mortem to be organized immediately. The post mortem report stated that **“death was due to effects of ante mortem hanging.”** Regarding injuries, the post mortem report opined that there was abrasion which might be around 3/4 days old. The ligature mark

was obliquely placed, non-continuous etc. These all indicated ante mortem hanging.

5. The viscera was sent to State Forensic Science Laboratory for chemical examination under order of Ld. C.J.M., Bankura.

6. The seizure list with reference to Gangajalghati P.S. U.D. Case No.57/22 dt.16/9/2022 as submitted which was prepared by S.I. Churamoni Mondal on 17/9/2022 referred to seizure of “একটু পুরানো লাল সাদা রংয়ের গামছা গাঁট বাঁধা এবং কাটা অবস্থায় পাওয়া যায়। একটি ছুরি হলুদ রংয়ের প্লাস্টিকের বাটযুক্ত লম্বায় ৯ ইঞ্চি বাট সমেত (আনুমানিক)। এই গামছার দ্বারা অমৃত বাউরী ফাঁস দিয়া আত্মহত্যা করে ও ফাঁস কেটা উদ্ধার করা হয়।”

7. Ld. CJM, Bankura vide his memo No.852 dt.14/8/2023 forwarded the judicial enquiry report u/s 176(1A) Cr.P.C. conducted by Shri Tshering Wangchuk Bhutia, Ld. Judicial Magistrate, 7th Court, Bankura Sadar. The Judicial Magistrate's report was examined by the West Bengal Human Rights Commission and in the concluding paragraph of his report, the Ld. Judicial Magistrate concluded after examination of statement of witnesses, post mortem report, inquest report and video recording (CCTV) that there was no

foul play in death of Amrit Bauri. It appears that deceased took his own life and the enquiry was closed with the above observation.

8. Ld. Judicial Magistrate, Bankura had examined around 20 witnesses which include staff of the Police Station. Paragraphs 10 – 11 of the report of Ld. Judicial Magistrate disclosed that ASI Amit Kumar Barui and lady Constable Krishna Das were respectively the duty officer and on Sentry duty on 16/9/2022 when the deceased committed suicide. According to ASI Amit Bauri, around 2.45 p.m. the Second Officer told him to register a complaint based on version of a “lady”. Suddenly, the I.C. asked him about the “person”. Since the ASI was not aware of the presence of one “person” he was taken aback and all personnel started searching for that “person”. Sometime later lady Constable Lakshmi Das, Sentry on duty informed that one male person had committed suicide. ASI Amit Bauri alleged that his seniors pressurized him to make entries in the General Diary regarding events of 15/9/2022 and those entries of 16/9/2022 were taken away by the I.C. and he was asked to make new entries. In para 9 of the said report it has been stated that the deceased was brought and kept at Police Station for safe custody from 15/9/2022 around 19.30 p.m. on allegation of rape but there was no one to lodge complaint against him till the afternoon of 16/9/2022. The deceased was not permitted to leave Police Station on the ground of local problem. In para 19 of the said report it was

stated that two sons of the deceased were promised job and compensation and Ld. Magistrate observed that those promise for job and compensation did not suggest any foul play. In paragraph 16 of the report it was stated that wife of the deceased claimed that her husband (deceased) was beaten up by police and Ld. Magistrate was of the view that allegation was not corroborated in the post mortem report.

9. The West Bengal Human Rights Commission has carefully gone through the report submitted by the Learned Judicial Magistrate regarding the death of Amrit Bauri in police custody. Learned Magistrate concluded his enquiry under Section 176(1A) Cr.P.C. after observing as under :-

“The scrutiny of the statement of witnesses, post-mortem report, inquest report and video recording suggest that there was no foul play in the death of Amrit Bauri. It appears that deceased took his own life.”

On careful consideration of the entire report as well as the observations on the basis of which Learned Magistrate came to his conclusion, certain facts have been established which give rise to certain questions also. Those facts and questions are required to be given anxious thoughts by the Commission. Those facts and questions are as follows :-

(i) The deceased Amrit Bauri was detained in police station from the evening of 15th September, 2022 till 02.45 p.m. of 16/09/2022 without registration of any specific case against him;

(ii) What prompted the police authorities to curtail the personal liberty of a person without following the procedure prescribed by law;

(iii) Whether the detention of the deceased in the police station for such a long period was backed by any law/rules or regulations ?

(iv) Deceased committed suicide while he was in police station/in the police custody;

(a) What was the nature of the said custody ?

(b) Whether reasonable care and protection were given to the deceased person who was detained in the police custody?

(vii) Was there any negligence on the part of the authorities concerned to provide due care and protection to the deceased Amrit Bauri.?

In view of above background, it was decided by the West Bengal Human Rights Commission to examine police personnel as well as the relatives of the deceased. The West Bengal Human Rights Commission examined the I.C. of the Police Station, namely, Dipankar Saha on 28/8/2023 who stated that at present he is

posted at the Gangajalghati P.S. with effect from 30/9/2022. He was not the I.C. of the Police Station at the relevant point of time. He submitted certified copy of FIR No.134/2022 dt.16/9/2022 u/s 341/376 IPC and G.D. Entry No.699 dt.15/9/2022 and No.744 dt.16/9/2022 of Gangajalghati P.S.He further informed that Shri Ashim Kumar Sarkar was the I.C of the Police Station on 15/16-9-2022 and now he is posted at D.I.B, Hooghly.

10. ASI Amit Kumar Bauri's statement was recorded on 28/8/2022. During his examination, he admitted that he was duty officer at the P.S. from 08 a.m. on 16/9/2022. He informed that one person was present at the Police Station but not in connection with any case. He stated that around 3 p.m. an aged lady visited the Police Station along with 2/3 persons, and they met the O.C. of the Police Station and handed over a written complaint to him to fill up formal FIR. He claimed that he had made statement to Ld. J.M. that he was pressurized to change the G.D. entries. He further claimed that in the changed G.D. entries it was stated that deceased Amrit Bauri was taken into safe custody of Police Station.

11. Lady Constable 1890 Krishna Das was examined on 28/8/2023 and her statement was recorded. She informed that she had joined duty at 02 p.m. and around 2.45 p.m. she found three ladies were moving towards the I.C.'s office. She was instructed by the I.C. to ascertain from these ladies as to what had happened and

to communicate the same to the I.C. She further stated that victim lady (70 years) alleged that Amrit Bauri had raped her. The Second Officer was asked to record the FIR by I.C. and the witness was told to keep an eye on the victim lady. She informed that NVF Suchand Murmu was the first person who located Amrit Bauri in a hanging condition in the wash room of Police Station. He was hanging with the help of his towel (gamcha).

12. Statement of ASI Ram Udar Tiwari was recorded on 04/9/2023. The witness was posted at Gangajalghati P.S. and now he is posted under Asansol-Durgapur Police Commissionerate. On 15/9/2022 between 06 p.m. and 08 p.m. (following day) he was on R.T. Patrol duty. He was informed by the duty officer S.I. P.K. Das that an incident had occurred at Borjuri village and he proceeded there and found that one man was confined by several villagers who alleged that Amrit Bauri had raped a woman. He asked for a written complaint in this regard but none co-operated. He took Amrit Bauri to the Gangajalghati Police Station and prior to that he was medically examined at the hospital. He informed that on 15/9/2022 he did not receive any complaint about the alleged incident. Regarding detention of Amrit Bauri at Police Station he stated that this was done for the safety of that person. He further informed that Amrit Bauri was brought to the Police Station on 15/9/2022 around 09 p.m. and died on 16/9/2022 at 04 p.m.

13. Inspector, Shri Ashim Sarkar, the then I.C. of Gangajalghati P.S. was examined on 04/9/2022. During his examination, he stated that he had instructed the concerned ASI Ram Udar Tiwari on mobile duty to bring Amrit Bauri to the Police Station. He had not received any written complaint against Amrit Bauri till that time. Although, he learnt on enquiry that Amrit Bauri committed rape on an aged lady. The victim lady could not be contacted on that night and an officer was sent on 16/9/2022 to contact her. The victim lady came to the Police Station in the afternoon to lodge a complaint around 3 p.m. During that period Amrit Bauri was detained at the Police Station, and kept outside the lockup, without any complaint. He justified such detention on the ground that if he was released he would have been assaulted by the local villagers. He admitted to the West Bengal Human Rights Commission that such an act was against legal norms for which a departmental proceeding has been initiated against him. Amrit Bauri died as a result of hanging at Police Station. He strongly refuted the allegation regarding making changes in the G.D. Entries of events dt.15/9/2022 and 16/9/2022 as stated to Ld. Judicial Magistrate and W.B.H.R.C. by ASI Amit Kumar Bauri.

14. Following witnesses were also examined :- (i) Bidyut Bauri, son of Amrit Bauri, (ii) Raju Bauri, son of Amrit Bauri and (iii) Ms. Bulbuli Bauri widow of Lt. Amrit Bauri.

Both Bulbuli Bauri and Raju Bauri admitted that they have no personal knowledge as at the relevant point of time they were not in their village. They had made statement to Ld. Judicial Magistrate that they were promised for grant of job and compensation and the money was being paid by the Police Station.

Bulbuli Bauri stated that on 15/9/2022 she was at her paternal home due to Viswakarma Puja which is a village adjacent to Gobindadham village. She stated that the police informed her about death of her husband at Police Station on the day of Viswakarma Puja. She had been to the Police Station when a lady police officer informed that Amrit Bauri died due to heart failure at time of taking food. The body was later cremated. But she had not lodged any complaint about death of her husband with any authorities.

Findings :

15. The West Bengal Human Rights Commission examined all the reports including the report of enquiry conducted by Ld. Judicial Magistrate and statement of different witnesses as mentioned. From the materials it appears that on 15.09.2022 an information was received by R.T. Mobile Officer that at Vill.Gobindadham under P.S.Gangajalghati a person was kept confined by the locals on allegation of rape. On the direction of I.C., the R.T. Mobile Officer,

Ram Udar Tiwary (ASI) rescued that person, organized his medical examination at the rural hospital and brought him to the Police Station. He did not receive any complaint from the locals about above allegation. On further instruction of the I.C., that person viz., Amrit Bauri was kept confined at the Police Station from 9 p.m. of 15/9/2022 till around 3 p.m. of 16/9/2022 under "safe custody" of the Police Station but not interred in the lockup. Around 3 p.m. of 16/9/2022, the victim lady along with other ladies came to Police Station to lodge complaint against the deceased, Amrit Bauri. At that time the deceased went to the wash room and committed suicide by hanging himself with his own towel (which was later seized by police). From the materials placed on record as well as the statement made by the police personnel before the Human Rights Commission there is no doubt that R.T. Mobile Officer ASI Ram Udar Tiwari in compliance with the direction of Inspector In-charge of Gangajalghati P.S., Bankura took the custody of deceased Amrit Bauri who was detained by local mob on the allegation of commission of heinous crime on a lady aged about 70 years. It also appears that the deceased Amrit Bauri was brought to the police station and he was kept in the police station from the evening of 15/09/2022 till 02.45 p.m. of 16/09/2022. No specific case was registered against said Amrit Bauri during the above mentioned period. The police personnel tried to justify their action to keep said

Amrit Bauri in the police station by projecting that Amrit Bauri was rescued and he was taken into safe custody to save him from the mob. It is the duty of the police to maintain law and order. This excuse cannot be said to be reasonable and justified. There is no such provision in the Code of Criminal Procedure to provide safe custody to a person against whom there is a chance of registration of a specific case. Duty of the police personnel to follow the provisions of law. Law on this point is quite explicit. Section 41 Cr.P.C. authorizes a police officer to arrest a person against whom there is reasonable suspicion exists for commission of a serious offence. Restraint a person by police authority without arresting him cannot be justified in any way. In the present case the police authorities concerned totally failed to follow the procedure prescribed by law and detained a person in the police station without arresting him for a long period. The conduct of police authorities amounts to violation of personal liberty of that person. The offence alleged to have been committed by the deceased was serious in nature and the prescribed period for punishment for commission of such offence is imprisonment for more than 7 years. In this case the police personnel could have started a case under Section 41 Cr.P.C. More so, though the deceased was brought to the P.S. with the object of providing safe custody to him but he committed suicide. The Commission of suicide of the deceased has clearly indicated that

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care as required to be provided to him was not given to him. This incident of suicide amounts to negligence on the part of the authorities concerned.

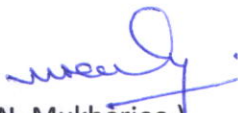
It is, unfortunate, that the duty sentry Constable L.C. Krishna Das or duty officer, ASI Amit Kumar Bauri did not keep strong watch on the deceased specially when he was allowed to move freely inside the Police Station and was not in the lockup. This was a definite lapse on their part. On the other hand, the I.C. Shri Ashim Sarkar, being an Inspector of Police with long experience of police work and criminal law took such an illegal step of detaining the accused without any formal complaint on the ground of "safe custody". There is no law in Cr.P.C. regarding "safe custody". The correct course of action would have been to arrest the accused person u/s 41(1) Cr.P.C./151 Cr.P.C. to wit a case of rape at a later stage and that even a suo motu complaint of rape could have been started at the Police Station. It is, unfortunate, that the Inspector-in-Charge failed to take such legal steps and due to negligence of Police Station the accused was able to commit suicide within the Thana premises. It is learnt that departmental proceedings have already been started against Inspector, Shri Ashim Sarkar, ASI Amit Kumar Bauri and L.C. Krishna Das.

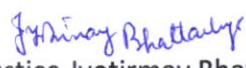
16. The West Bengal Human Rights Commission, therefore recommends the following :-

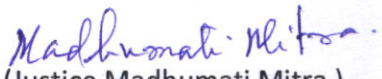
- (a) A sum of Rs.2,00,000/- (Rupees two lakhs) only be awarded as compensation to the widow, Bulbuli Bauri of deceased, Amrit Bauri;
- (b) A circular be issued by the D.G. and IGP, West Bengal that none should be arrested on ground of "safe custody" rather the arrest could be effected u/s 41/151 Cr.P.C. to wit a case under appropriate law at a later state. All formalities including medical examination, issue of arrest memo, intimation to near relatives should be adhered to while effecting such arrest.

17. Special Secretary, W.B.H.R.C. is directed to send authenticated copy of the recommendations to the Chief Secretary, Govt. of West Bengal. Chief Secretary, Govt. of West Bengal should inform the Commission about the action taken or proposed to be taken on the recommendations within a period of 3 (three) months from the date of receipt of this communication.

Ld. Registrar, W.B.H.R.C is directed to upload the recommendations in the website.


(N. Mukherjee)
Member 20/9/2023


(Justice Jyotirmay Bhattacharya)
Chairman
20.09.2023


(Justice Madhumati Mitra)
Member 20.09.2023

Encl : Copy of intimation of death of Amrit Bauri,
Copy of report of S.P., Bankura,
Copy of Judicial Enquiry Report.