HIGH COURT OF ANDHRA PRADESH

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WRIT PETITION No.15132 of 2026

Between:
Gade Vijaya Lakshmi

.....PETITIONER

AND
The State of Andhra Pradesh and 4 others

.....RESPONDENTS

DATE OF JUDGMENT RESERVED : 22.09.2026

DATE OF JUDGMENT PRONOUNCED : 16.10.2026
DATE OF JUDGMENT UPLOADED : 16.10.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI JUSTICE ALAPATI GIRIDHAR

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

_____
RAVI NATH TILHARI, J

_____
ALAPATI GIRIDHAR, J

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**
&
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.....RESPONDENTS

! Counsel for the Petitioner : Sri N.Ashwini Kumar, learned counsel assisted by Ms. Rithvika Koganti

Counsel for the Respondents : Ms.S.Pranathi, learned Special Government Pleader assisted by Sri J.Krishna Praneeth, learned AGP

< Gist :

> Head Note:

? Cases Referred:

1. (2010) 3 SCC 571
2. (2016) 3 SCC 135
3. 2025 SCC OnLine SC 2254
4. 2025 SCC OnLine SC 1491
5. 2025 SCC OnLine SC 1119
6. (2021) 3 SCC 529
7. (2010) 2 SCC 200
8. 2026 SCC OnLine SC 1550
9. (1993) 2 SCC 746
10. (2006) 3 SCC 178
11. (2017) 10 SCC 658
12. (2000) 5 SCC 712
13. 2026 SCC OnLine All 457
14. W.P.(C) 9558/2020 HC of New Delhi decided on 01.07.2026
15. 2026 SCC OnLine SC 1550
16. (1997) 1 SCC 416
17. (2014) 8 SCC 273
18. (2026) 1 SCC 500
19. (2025) 5 SCC 799

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION No.15132 of 2026

ORDER:- *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri N.Ashwini Kumar, learned counsel assisted by Ms.Rithvika Koganti, learned counsel for the petitioner and Ms.S.Pranathi, learned Special Government Pleader assisted by Sri J.Krishna Praneeth, learned Assistant Government Pleader for the respondents.

I. Writ for Habeas corpus with I.A.No.2 of 2026 for investigation by Central Bureau of Investigation (CBI):

2. This writ petition has been filed by the mother of the alleged detenu namely Gadde Sai Krishna for a writ of habeas corpus directing the respondents to produce the detenu aged about 25 years and even after it is found that the detenu is no longer alive, to pass such other orders as may be deemed fit and proper in the circumstance of the case. The further prayer has been made that in the event the detenu is remanded and produced before the jurisdictional judicial magistrate, those proceedings to be video-graphed without presence of police and such video recordings be also produced before the court. The prayer is reproduced as under:

"….pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Habeas Corpus directing the respondents to produce Gade Sai Krishna S/o Nageswara Rao, aged about 25 years before this Hon'ble Court, even detenu is found to be no longer alive also, direct the respondents to present the son of the petitioner before this Hon'ble court and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Further, it is also prayed that this Hon'ble Court may be pleased to direct that, in the event the detenu is remanded and produced before the jurisdictional Judicial Magistrate, the said proceedings shall be videographed without presence of the police and the video recording thereof be placed before this Hon'ble Court, pending disposal of the above Writ Petition, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. The prayer in I.A.No.2 of 2026 reads as under:

"…..pleased to direct the investigation relating to disappearance of the corpus be entrusted to the Central Bureau of Investigation or any other competent independent investigating agency as this Honble Court may deem fit, under judicial supervision, for tracing, securing and producing the corpus before this Honble Court and for conducting a fair, impartial and independent investigation into the circumstances leading to his disappearance, pending disposal of the Writ Petition, and pass such other order or orders"

II. Facts as per the writ petition; counter affidavit; Affidavits and the Status Report:

4. The petitioner's case as per writ petition is that several criminal cases were registered against the detenu in the past and the substantial number of such cases ended in acquital, settlement, withdrawal or other forms of disposal, while some cases were pending before the competent

courts. For the last several years the police authorities of Krishnalanka Police Station were searching for detenu and frequently visiting the petitioner's residence enquiring about his whereabouts and due to the continuous police interference and harassment, the detenu shifted his residence and was staying at Markapuram. On 09.05.2026, the police constables namely Murali and Babu Rao of Krishnalanka Police Station came to the petitioner's residence and took the petitioner to the police station. Her mobile phone was also taken by the police personnel and she was questioned regarding the whereabouts of the detenu. In the investigation, the petitioner was informed that the detenu was going to die. She was permitted to leave the police station but her mobile phone was not returned to her. Thereafter, she tried to contact the detenu but no contact could be made. The petitioner's mobile phone was returned after about 15 days by the police personnel but on verification after its return she found that call history, photographs, contact details and other data stored had been accessed and utilized by the police authorities for locating and tracing the detenu.

5. On 13-05-2026 she went to markapuram in search of her son and during enquiry she came to know from the local persons that the police personnel had taken away the detenu from Markapuram and the articles and the belongings relating to her son were removed from the place of his residence. She visited to Krishnalanka Police Station and during

enquiry about whereabouts of her son, she was informed by the police constable in the police station that the detenu was in police custody and advised her to approach Circle Inspector for further details. Upon which, she approached Circle Inspector but she was informed that the Circle Inspector did not know the whereabouts of the detenu. Some contradictory responses were also given which created a strong apprehension about the custody and the whereabouts of the detenu being deliberately suppressed from the petitioner.

6. On 21.05.2026 the petitioner with her counsel again approached the Krishnalanka police station to enquire about the whereabouts of the detenu but no response was received. She then approached the Human Rights Committee and submitted a detailed complaint narrating the entire incident. Her compliant was recorded. She also gave complaint dated 28.05.2026 before the authorities and a crime petition acknowledgment was generated. However, no effective action had been taken.

7. In the writ petition the further case is that no arrest memo was served, no remand report was furnished and no information regarding the place of detention or custody of the detenu had been disclosed. He had also not been produced before any court and no information had been furnished regarding his admission into any jail or correctional

institution. It is also submitted that even if there may be criminal cases against the detenu and warrants issued by the competent courts, the police authorities are duty bound to apprehend in accordance with the law and produce the accused before the jurisdictional court. Lodging of criminal cases or warrants could not justify undisclosed detention, suppression of whereabouts or denial of access to the petitioner.

Counter Affidavits:

8. Respondent No.4 (Inspector of Police, Krishnalanka Police Station) filed counter affidavit on 19.08.2026 vide USR.No.95719 of 2026. The contents of the writ petition were denied. It was submitted that the detenu had criminal antecedents and was a habitual offender. He was involved in about 20 criminal cases including 2 NDPS cases registered on various Police Stations of the NTR Police Commissionerate and some cases ended in acquittal, compromise or other forms of disposal while some cases were still pending before the competent Courts or were under investigation. Considering his criminal antecedents and with a view to preventing him from involving himself in criminal activities, a Rowdy sheet was opened against him vide C.No.122/HS/ACP-SD/2017, dated 15.02.2017 and the same has been maintained at Krishnalanka Police Station as per the prescribed procedure.

9. The further stand was that at very point of time Non-Bailable Warrants were pending against the detenu, in connection with criminal cases registered at Krishnalanka Police Station. An NBW was pending in S.C.No.240 of 2024 on the file of the II Additional District and Sessions Judge, Vijayawada, arising out of Cr.No.350 of 2024 of Krishnalanka Police Station for the offences punishable under Section 8(c) read with Section 20(b)(ii)(C) of the NDPS Act and another NBW was pending in C.C.No.699 of 2020 on the file of II Additional Judicial Magistrate of First Class, Vijayawada arising out of Cr.No.527/2019 of Krishnalanka Police Station under Section 324 IPC. For the purpose of executing the pending NBWs, the then Inspector of Police, Krishnalanka Police Station made a written requisition to the Assistant Commissioner of Police, Task Force, Vijayawada City, seeking deployment of Task Force personnel to assist in apprehending the detenue/accused and pursuant to the requisition, the Assistant Commissioner of Police, Task Force, Vijayawada City, deputed a Sub-Inspector of Police, Task Force personnel and Police Constable No.2311 of Krishnalanka Police Station to Markapuram for execution of pending NBW. The police team proceeded to Markapuram on the night of 05.05.2026 and on 06.05.2026 at about 03.00 am., apprehended the detenu at Markapuram. After apprehending the detenu at Markapuram, the police team brought him to Vijayawada and at about 07.00 am on 06.05.2026, handed him over to the Sentry Police

Constable at Krishnalanka Police Station under proper acknowledgment. Thereafter the custody was handed over from one police personnel to another, during sentry duty and after the arrival of the then Inspector of Police, the detenu and his cell phone were handed over to the then Inspector of Police. The stand of respondent No.4 in counter affidavit is that the subsequent investigation in Cr.No.107/2026 brought these facts to light.

10. The further stand taken in counter affidavit of respondent No.4 is that during pendency of the writ petition, the petitioner lodged a report on 19.06.2026 alleging illegal detention, custodial assault, death of her son and disappearance of the dead body/evidence and based on the said report, Cr.No.107/2026 under Sections 127(4), 127(6), 103(1) and 238 of the BNS was registered at Krishnalanka Police Station and the FIR was submitted to the competent authorities.

11. Pursuant to the orders of the Commissioner of Police, Vijayawada City, vide Memo C.No.32/CP-NTR/2026, dated 19.06.2026, the Assistant Commissioner of Police, Mahila Police Station, Vijayawada, initially took up the investigation, examined the witnesses, seized the CCTV camera DVRs with the assistance of the APFSL team, and collected other relevant material, including the pending Non-Bailable Warrants. While the investigation was being conducted, the Government of Andhra

Pradesh, vide G.O.Rt.No.1215, General Administration Department, SC-D Department dated 21.06.2026, constituted a Special Investigation Team (SIT) headed by Sri M.Ravi Prakash, IPS, IGP (P & L), along with other officers, and an investigating officer was appointed by the Head of the SIT. The Investigating Officer of the SIT took over the case diary from the Assistant Commissioner of Police, Mahila Police Station, and proceeded with further investigation. The deponent of the counter affidavit – 4th respondent after assuming charge as SHO, Krishnalanka Police Station on 17.06.2026 and upon verification of the records, found that serious allegations had been made by the petitioner against the then SHO, Sri S.S.V.V.Nagaraj. The petitioner had alleged that her son was illegally detained in the police station and subjected to custodial torture and when she visited Krishnalanka Police Station, the then Inspector/SHO Sri S.S.V.V.Nagaraj did not provide a proper response about the whereabouts of her son. The superior officers viewed the allegations seriously and the said Inspector/SHO was placed under suspension on 17.06.2026 and was attached to Vacancy Reserve (VR), pending further proceedings.

12. Another counter affidavit had been filed by respondent No.4 vide USR.No.103894 of 2026 dated 09.09.2026 in response to I.A.No.2 of 2026 filed by the petitioner, in the writ petition, for direction for investigation regarding the disappearance of the corpus to be entrusted

to the Central Bureau of Investigation or any other competent independent investigating agency, under judicial supervision for tracing, securing and producing the corpus. In the said counter opposing the prayer for the investigation by the CBI and referring to various judgments it was submitted that no case for ordering the CBI enquiry was made out. The investigation was being carried out in a fair and unbiased manner by the SIT.

Reply Affidavit:

13. The petitioner has filed the reply to the counter affidavit of respondent No.4, to the effect that the present writ petition was filed under exceptional facts and circumstances requesting to entrust the investigation in Cr.No.107 of 2026 to the CBI or to any other independent investigating agency. The petitioner, emphasised that as per the counter affidavits itself, it was admitted that the police team apprehended Gade Sai Krishna at about 03.00 am on 06.05.2026 and brought him to Krishnalanka Police Station at about 07.00 am and handed over him from one police personnel to another, during sentry duty and thereafter to Inspector of Police, Krishnalanka Police Station. The petitioner submitted that the constitution of the Special Investigation Team (SIT) could not by itself deny the prayer for independent investigation by CBI nor would defeat the jurisdiction of this Court to examine whether in the

present case, an independent investigation by Central Bureau of Investigation would be necessary or not. The registration of Cr.No.107 of 2026 and subsequent transfer of investigation to SIT by themselves were no answer to the serious questions surrounding the custody and subsequent disappearance of Gade Sai Krishna. The investigation must necessarily ascertain, the circumstances in which Gade Sai Krishna was apprehended, the exact period for which he remained in police custody, the identity of every police officer/personnel who had access to him, the entries made in the relevant records, the CCTV footage, the location and movement of his mobile phone and the circumstances surrounding his subsequent disappearance.

Affidavit dated 24.06.2026:

14. The petitioner has filed another affidavit dated 24.06.2026. She has submitted that the detenu/corpus was missing from 06.05.2026. However Cr.No.107 of 2026 was registered only on 19.06.2026 after lapse of about 45 days. The circumstances create a serious apprehension that the steps were taken only after judicial scrutiny commenced and not at the time when the corpus first went missing. Inspite of various orders passed in the writ petition the corpus was not produced. The SIT had filed a remand report in Cr.No.107 of 2026 in which it was clearly mentioned that Gade Sai Krishna was apprehended

at Markapuram on 06.05.2026 and brought to Krishnalanka Police Station, handed over into police custody and was not produced before the jurisdictional Magistrate thereafter. The remand report records that the whereabouts of the detenu remained unknown and that the dead body had not been traced till date. The remand report itself shows that several police personnel attached to Krishnalanka Police Station, Task Force personnel and other officials were involved in the apprehension, transportation, custody and handling of the corpus. Several material witnesses including police personnel and other official had yet to be examined in detail. The role of other persons who may be involved in the illegal detention of the corpus, suppression of material facts, destruction of evidence, disappearance of electronic records and concealment of the dead body are yet to be fully ascertained. The complete chain of events leading to the disappearance of the corpus had not been disclosed. It was not explained as to why no immediate action was taken. The remand report recorded the absence of CCTV footage relating to the relevant period, which raised serious concerns regarding suppression of material facts and require a thorough, fair and independent investigation. The petitioner also made the averments and apprehensions regarding the involvement of higher designated officers, submitting that the head of the jurisdiction must have known about the heinous crime taking place

in his jurisdiction but the said respondent No.3 kept silence for over 40 days.

Reply affidavit:

15. The reply affidavit to the 2nd counter affidavit of respondent No.4 dated 09.09.2026, has also been filed emphasizing the need for CBI investigation, referring to the judgments of the Hon'ble Apex Court.

16. Learned Special Government Pleader submitted before us, a Status report in Cr.No.107/2026, which was taken on record.

Status Report in Crime No.107 of 2026:

17. As per the status report, the charge sheet has been filed based on the material as became available on record by that date. Charge sheet was filed on 19.09.2026 before the Court of II Additional Civil Judge (Junior Division) – cum – II Additional Judicial Magistrate of First Class, Vijayawada. Further investigation is however continuing.

18. We deem it appropriate to reproduce the entire status report as under:

"STATUS REPORT IN CR.NO.107/2026 U/S 127(4), 127(6), 103(1), 238, 305, 316(5), 61(2) R/W 3(5) BNS & SEC. 3 OF PDPP ACT, 1984, SEC. 65, 66 OF IT ACT, 2000 OF KRISHNA LANKA P.S.

BRIEF FACTS OF THE CASE:

On 19.06.2026, the de facto complainant, Smt. Gade Vijaya Lakshmi, W/o Nageswara Rao, A/53, R/o D.No.41-12-24, Rajeev Colony, Satyanagar Doddi,

Krishnalanka, Vijayawada, submitted a written report to the Commissioner of Police, Vijayawada, alleging that her son, Gade Sai Krishna @ Pilla Sai, aged 25 years, who was earlier involved in a murder case and released on bail, had been residing at Markapur due to pending cases and NBWs in Krishnalanka and Machavaram Police Stations.

She alleged that, during the first week of May 2026, personnel of Krishnalanka Police Station apprehended Sai Krishna and brought him to the Police Station, when she visited the Police Station and met the then CI, Sri S.S.V.V. Nagaraju, she was not permitted to meet her son, though she heard cries from the upper floor and saw him in the lock-up. She further alleged that subsequent efforts through her sister, Advocate Kanakadurga, to ascertain his whereabouts were unsuccessful.

She further alleged that Sai Krishna was illegally detained and subjected to custodial torture, resulting in his death, and that his body was thereafter disposed of and burnt to screen the offence and cause disappearance of evidence, and requested legal action against those responsible.

Based on the said complaint, Crime No.107/2026 of Krishnalanka Police Station was registered on 19.06.2026 U/s 127(4), 127(6), 103(1), 238 of the BNS, 2023 against the then SHO/Inspector of Krishnalanka Police Station and others.

The Commissioner of Police, Vijayawada, vide Memo C.No.1896/C1/2026, dated 19.06.2026, entrusted the investigation of the case to Sri T. Daiva Prasad, ACP, Mahila Police Station, Vijayawada.

Upon taking up the investigation, the Investigating Officer examined LWs.1 to 16, visited the scene of offence in the presence of mediators, prepared the Scene Observation Panchanama and Rough Sketch, and in the presence of the Fingerprint Team, Crime Scene Team, FSL experts, and CCTV technicians, seized the CCTV Network Video Recorder (NVR) along with four hard disks of 8 TB capacity each under a duly conducted seizure panchanama. The seized material objects were forwarded to the Forensic Science Laboratory for scientific examination through the jurisdictional Court.

Subsequently, the Government of Andhra Pradesh, vide G.O.Rt.No. 1215, General Administration (SC.D) Department, dated 21.06.2026, communicated through Endt.C.No.694/L&O-II/2026, dated 21.06.2026, issued by the DGP,A.P., constituted a Special Investigation Team (SIT) to conduct a comprehensive investigation into the case.

Pursuant thereto, Sri L. Sudhakar, Additional Superintendent of Police (Administration), Bapatla, a member of the SIT, was appointed as the Investigating Officer and assumed charge accordingly. Till date, he has examined L.Ws.1 to 81.

During the investigation, the Investigating Officer inspected the scene of offence at Krishnalanka Police Station with the assistance of FL experts and the Clues Team and seized the relevant material objects under a duly prepared seizure panchanama. On examination of the oral, documentary and digital evidence collected, A2 to A7 were found prima facie involved in the commission of the offences and were accordingly arrayed as accused.

The investigation conducted so far has disclosed the following:

1. Accused No.1, Sri S.S.V.V. Nagaraju, served as the Inspector of Police and Station House Officer, Krishnalanka Police Station, during the period from 13.08.2024 to 14.06.2026.

2. Two Non-Bailable Warrants (NBWs) were pending against the deceased in Crime No.350/2024 under the NDPS Act, 1985, and Crime No.527/2019 under Section 324 IPC, both of Krishnalanka Police Station. To evade execution of the warrants, he was residing at Markapuram. Accordingly, on 05.05.2026, A1 submitted a written requisition to the Assistant Commissioner of Police, Task Force, Vijayawada City, seeking deployment of Task Force personnel for their execution.

3. Pursuant thereto, the Assistant Commissioner of Police, Task Force, deputed one SI and two PCs. Accordingly, they, along with A5, Sri Kaithepalli Babu Rao, PC No.2311 of Krishnalanka Police Station, proceeded to Markapuram during the intervening night of 05/06.05.2026 and apprehended the deceased at about 03:00 hours on 06.05.2026.

4. The deceased was brought to Krishnalanka Police Station at about 07:00 hours on 06.05.2026 and formally handed over to the station sentry, who acknowledged receipt. Thereafter, his custody, along with his mobile phone, was entrusted to A1. Though his apprehension was lawful, he was neither produced before the jurisdictional Magistrate within the period prescribed under the BSS, 2023, nor released from police custody thereafter. The investigation prima facie revealed violation of the safeguards under Article 22 of the Constitution of India and the BNSS, 2023. The deceased was last seen alive in police custody at Krishnalanka Police Station, after which his whereabouts remained unknown. It was further revealed that A1, despite being the SHO, failed to disclose these material facts to his superior officers.

5. Since the deceased was neither produced before the jurisdictional Court nor released from lawful custody, and his whereabouts remained unknown, L.W.1 approached the Hon'ble High Court of Andhra Pradesh by filing Writ Petition (Habeas Corpus) No.15132 of 2026, seeking appropriate directions for securing and producing the detenue before the Court.

6. During the proceedings before the Hon'ble High Court, written instructions were submitted on behalf of the respondent police authorities. The investigation has revealed that Accused No.1, while furnishing such instructions, made false and misleading statements to the effect that the whereabouts of the deceased were unknown, despite being fully aware that the deceased had been apprehended at Markapuram and brought to Krishnalanka Police Station. It has further emerged during the investigation that, even after the Hon'ble High Court directed the respondent police authorities to secure and produce the deceased before the Court, Accused No.1 deliberately suppressed the true facts and failed to disclose the custody of the deceased, thereby obstructing the due course of justice and misleading the Hon'ble Court.

7. The oral, documentary, and digital evidence collected during the course of investigation prima facie disclose that the deceased continued to remain in police custody beyond the period permissible under law and was not produced before the jurisdictional Magistrate in accordance with the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. The witness statements and material evidence prima facie establish that the deceased was assaulted in police custody, sustained visible injuries, and was last seen alive at Krishnalanka Police Station. The evidence further indicates that he died from the injuries sustained during the custodial assault. Thereafter, the accused, acting with common intention and pursuant to a criminal conspiracy, caused disappearance of the dead body to screen the offence and evade legal punishment.

9. Investigation revealed that the original CCTV hard disks installed by the authorized vendor were removed and replaced with other hard disks. The vendor confirmed that the disks found in the seized NVR were neither supplied nor installed by them, and the technical team confirmed that no authorized replacement was made after the initial installation. These facts prima facie establish that the accused caused removal and replacement of the original hard disks containing the CCTV recordings, either individually or in furtherance of their common intention with others.

10. The replacement was intended to destroy or cause disappearance of electronic evidence relating to the deceased's detention, custodial assault, death and subsequent disposal of his body, thereby screening the offenders from legal punishment.

11. Preliminary forensic examination of the NVR seized from Krishnalanka Police Station on 19.06.2026 revealed that CCTV footage for the relevant custody period, as well as the preceding 18 months, was unavailable, indicating tampering with or destruction of the electronic evidence. The matter is under further investigation.

12. During the investigation, teams were constituted to trace and identify the mortal remains of the deceased by collecting details of unidentified dead bodies from Government and private hospitals, 108/112 Emergency Response Services, burial grounds and crematoria. The DGP, CID, Andhra Pradesh, was requested to furnish State-wide details of unidentified dead bodies, and the information received was verified. Further, pursuant to Section 94 BNSS, 2023, the DMHO, NTR District, vide Rc.No.Spl-02/APMCE/DRA/2026, dated 02.07.2026, directed private hospitals to furnish details of unidentified persons

brought dead or who died during treatment between 08.05.2026 and 26.05.2026, and the records were duly verified. The verification conducted in all the above aspects did not yield any incriminating evidence or any information leading to the identification or recovery of the mortal remains of the deceased.

13. Technical analysis, corroborated by witness statements and CDRs, prima facie establishes that the deceased was brought from Markapuram to Krishnalanka Police Station on 06.05.2026 and remained in the custody and/or presence of its police personnel until 09.05.2026. The evidence collected has yielded significant leads regarding his custody and subsequent whereabouts.

14. An RMP stated that, on 08.05.2026, he examined the deceased inside Krishnalanka Police Station and found multiple bruises and swelling, and that the deceased disclosed having been assaulted by police personnel. CDR analysis and witness statements further prima facie indicate that, during late May and early June 2026, another person used the deceased's mobile phone to make calls, creating an impression that he was alive and absconding. These circumstances are being further corroborated through technical, medical and forensic evidence to establish the sequence of events and the role of the accused.

15. The System Operator, ACP South Division, stated that the Lock-up DSR dated 07.05.2026, communicated in the early hours of 08.05.2026, recorded the deceased, along with another person, as being in the Krishnalanka PS lock-up, corroborating his continued police custody.

16. A painter stated that A.2 Ashok Kumar contacted him on 01.06.2026 and instructed him to repaint dried blood-like stains on the walls of the second-floor Crime Room, Krishnalanka PS. The statement is being corroborated with forensic and scene evidence to ascertain whether material evidence was destroyed or concealed.

17. The statements of the above witnesses, read with the electronic, documentary, medical and forensic evidence, prima facie disclose material circumstances concerning the deceased's custody, physical condition, subsequent use of his mobile phone by another person, and possible alteration

of the scene. These aspects are under further investigation to establish the sequence of events and the role of each accused.

18. During the investigation, two search teams headed by Inspectors of Police, accompanied by police personnel, independent mediators and a videographer, conducted searches of the residences of A1 and A2 on 02.07.2026, A3 and A5 on 04.07.2026, and A6 on 18.07.2026, in accordance with the prescribed legal procedure. No incriminating material connected with the offence was found or seized during the searches.

19. As A4 is absconding and apprehension existed that he might leave India to evade investigation and legal proceedings, a Look-Out Circular (LOC) was issued to secure his presence. A requisition was also sent to IndiGo Airlines, New Delhi, seeking booking and passenger travel details for the Hyderabad-Gorakhpur-Hyderabad sectors from 08.05.2026 to 11.05.2026. The information is awaited.

20. In compliance with Paramvir Singh Saini v. Baljit Singh & Others, (2021) 1 SCC 184, 10 CCTV cameras were installed in and around Krishnalanka Police Station and connected to an NVR with approximately 18 months' storage capacity through four 8-TB hard disks. The NVR, allotted by Technical Services, Tech Tower, Mangalagiri, with its display screen, was installed in A1's room.

21. A1 and A2, in conspiracy with A7 and in furtherance of their common intention, caused the four original hard disks containing CCTV recordings for 06.05.2026 to 09.05.2026, when the deceased was in Krishnalanka P.S., to be removed and replaced on 14.06.2026. The NVR and hard disks were Government property and electronic evidence under the custody and control of A1 and A2, while A7, having technical access to the CCTV/NVR system, facilitated the replacement. Upon his arrest on 11.08.2026, A7 disclosed that, on the instructions of A1 and A2, he removed the original disks, replaced them with four others and handed the originals to A2; he also removed two entrance CCTV cameras monitored by the Command Control Centre, Vijayawada.

22. A7's disclosure is corroborated by the authorised vendor, M/s Sauthrika Technologies & Infra Pvt. Ltd., which confirmed that the four Seagate Exos 8-TB hard disks found in the seized NVRwere not supplied by it and that no

authorised replacement was carried out during the relevant period. The removal and replacement of the original disks rendered the relevant CCTV recordings unavailable, thereby causing the disappearance, destruction or concealment of material electronic evidence relating to the deceased's detention and custodial assault, with knowledge of its relevance to the investigation.

23. The statement of Susanth, corroborated by CDR/tower-location data, stated that, on A2's instructions, he carried the deceased's mobile phone and SIM to Goa from 30.05.2026 to 09.06.2026, activated them there and returned them to A2 on 09.06.2026, allegedly to create an impression that the deceased was alive and absconding.

24. Material evidence indicates that A4 repeatedly approached L.W.3 and the deceased's brother to induce and threaten them to compromise the matter with the police. On 31.05.2026, A4, along with A2 and A5, met them at Model Dairy, Kolanukonda Village, in a black Scorpio vehicle. CCTV footage of the meeting has been seized.

25. Further, the photographs retrieved from the mobile phones of police personnel during the relevant period establish the deceased's presence in police custody.

26. The oral, medical, digital, technical and CCTV evidence, viewed in sequence, prima facie establishes the continued custody of the deceased, his physical condition while in the custody of police personnel, subsequent efforts to create an impression of his being alive and absconding, alteration of the Crime Room, and attempts to influence the deceased's family, thereby providing material corroboration regarding the acts of the accused and the subsequent concealment of facts.

27. During investigation, based on the witness statements and technical, documentary and other material evidence collected, Sections 61(2), 305 r/w 3(5) BNS, 2023, and Section 3 of the Prevention of Damage to Public Property Act, 1984, were invoked. Subsequently, on the basis of further evidence, Section 316(5) BNS, 2023, and Sections 65 and 66 of the Information Technology Act, 2000, were also invoked by filing the requisite alteration memo before the jurisdictional Hon'ble Court.

28. At the time of arrest of Accused No.4; Sri Gulivindala Suresh, on 18.09.2026, it was revealed that he is a private individual and a close associate of A-1. His disclosure statement was recorded under the cover of a mediators' report. In his disclosure, A-4 stated that the deceased was shifted from Krishnalanka Police Station to an old building situated near the Pentecost Church, Krishnalanka. He further stated that, after the death of the deceased on 12.05.2026 after 14:00 hours, A-1 instructed A-2 to A-4 to dispose of the dead body. Accordingly, during the intervening night of 12/13.05.2026, A-2 and A-3 allegedly transported the dead body to Swargapuri Burial Grounds, Vijayawada, on a two-wheeler driven by A-2, with the body placed between them, while A-4 accompanied them. The dead body was allegedly burnt and reduced to ashes at about 00:30 hours on 13.05.2026. Pursuant to his disclosure, on 18.09.2026, A-4 led the investigating team to and identified the said old building and the place at Swargapuri Burial Grounds where the dead body was burnt.

ANANLYSIS OF CCTV SURVEILLANCE SYSTEM:

a) During investigation, 131 Matrix CCTV camera IP entries were identified in and around Krishnalanka P.S., including approach roads. Accordingly, vide letter dated 22.06.2026, the IGP, Technical Services, A.P., was requested to retrieve and preserve footage for 03.05.2026 to 28.05.2026. Vide reply dated 26.06.2026, enclosing the RTS CEO's report dated 25.06.2026, the SP, Technical Services, reported that 24 entries were duplicates, leaving 107 unique camera IPs.

b) Of the 107 unique IPs, 42 cameras were found relevant and their footage for 23.05.2026 to 22.06.2026 was preserved.

c) The system has 30-day rolling storage with automatic FIFO overwriting; hence, footage beyond the retention period is not retrievable, and availability of footage from the remaining cameras could not be assured.

d) Verification of 40 private CCTV surveillance cameras installed at 21 locations surrounding the Police Station has been completed and the footage examined; efforts to identify and analyse footage from any remaining private cameras in the vicinity are continuing.

e) The forensic examination of the NVR and hard disks seized from Krishnalanka P.S. on 19.06.2026 disclosed that no CCTV footage of the relevant custody period, nor of the preceding 18 months, was available. This finding now stands directly corroborated by the confession of A-7 recorded upon his arrest on 11.08.2026, and by the confirmation of the authorised vendor, M/s Sauthrika Technologies & Infra Pvt. Ltd., that the four hard disks found inside the seized NVR were not supplied by it, establishing that the originai hard disks were clandestinely removed and substituted on the instructions of A-1 and A-2.

Analysis of CDR analysis

a) The technical and digital evidence, viewed chronologically, establishes that A-2 initiated the arrangement of the vehicle through Venkat and involved A-5/Baburao, thereafter Taskforce police personnel and A-5 travelled to Markapuram, where their simultaneous tower locations corroborate their presence and the apprehension of the deceased. The photograph and acknowledgement recovered from PC Murari Krishna's mobile phone corroborate the deceased's handing over at Krishnalanka P.S. at about 07:00 hours on 06.05.2026. Subsequent CDRs, tower locations, photographs, videos and Lock-up DR/WhatsApp communications corroborate the deceased's continued custody at the Police Station and his movement with police personnel to Guadala and Hotel C-Grand on 08.05.2026, with A-5 and A-6 also present in the relevant areas. The CDRS and witness evidence further corroborate A-2's role in arranging the RMP doctor on 08.05.2026.

b) The digital evidence further corroborates A-2's subsequent handling of the deceased's mobile phone/SIM, including its movement and activation in Goa through witness Susanth, and the subsequent return of the handset. CDRs also corroborate communications between the witness Navarang and A-2,A-4 concerning the deceased.

c) WhatsApp messages recovered from the official CTF group record the presence of the deceased at Krishnalanka P.S. on 07.05.2026, 08.05.2026, 10.05.2026 and 11.05.2026, stating "Gadhe Sai Krishna in PS." On 11.05.2026, in response to the ADCP, Task Force, it was confirmed that he had not been remanded.

d) Thus, the CDRs, tower data, photographs, videos, WhatsApp/DSR records, forensic evidence and CCTV/NVR findings, read with the witness statements, provide material corroboration of the movements, custody and relevant conduct of the deceased and the involvement of the accused during the material period.

ARREST OF THE ACCUSED:

1) On 23.06.2026, Accused No.1, Sri S.S.V.V. Nagaraju, the then Inspector of Police, Krishnalanka Police Station, was arrested at about 12:40 p.m. and produced before the jurisdictional Magistrate, who remanded him to judicial custody. He is presently lodged in the Central Jail, Rajahmundry. He was placed under suspension vide proceedings dated 17.06.2026.

2) On 29.06.2026, Accused No.2, Sri Potarlanka Ashok Kumar, Head Constable No.850, and Accused No.3, Sri Jangam Nani, Head Constable No.484, surrendered and were arrested at about 10:30 p.m. and remanded to judicial custody. A-2 is. presently lodged in the Sub-Jail, Machilipatnam, and A-3 in the District Jail, Eluru. Both were placed under suspension vide proceedings dated 26.06.2026.

3) On 30.06.2026, Accused No.5, Sri Kaitepalli Babu Rao, Police Constable No.2311, and Accused No.6, Sri Goriparthi Sambaiah, Head Constable No.285, surrendered and were arrested at about 11:00 a.m. and remanded to judicial custody. A-5 is presently lodged in the Sub-Jail, Avanigadda, and A-6 in the Sub-Jail, Gannavaram. Both were placed under suspension vide proceedings dated 01.07.2026.

4) On 11.08.2026, Accused No.7, Sri Koneti Venkata Raju, Home Guard No.128, was arrested at about 18:30 hours at the Police Guest House, Vijayawada and produced before the jurisdictional Magistrate, who remanded him to judicial custody. He is presently lodged in the District Jail, Vijayawada, and was placed under suspension vide proceedings dated 19.08.2026.

5) Accused No.4, Sri Gulivindala Suresh, a private individual and close associate of A-1, was arrested on 17.09.2026 at 18:00 hours at the SIT Office, City Police Guest House, Vijayawada.

MATERIAL OBJECTS SEIZED AND SENT TO FSL:

The seized material objects, including suspected blood-stained articles, mobile phones of the accused and witnesses, NVRs, hard disks, memory cards and CCTV cameras, were forwarded to the APFSL through the Hon'ble Court, and the corresponding forensic reports have been received. The retrieved data is under further analysis by the technical teams.

The FSL, Andhra Pradesh, Mangalagiri, vide DNA Analysis Report No. dated dated (FSL Registration No. AP0602161DNA0074126), furnished its report in respect of 36 Material Objects, comprising swabs, one lathi and bone, seized from the scene of offence on 22.06.2026. The report has been received and is under further scientific evaluation to ascertain the evidentiary linkage, if any, with the deceased and the accused.

A memo was filed before the Hon'ble Court seeking permission to obtain the blood sample of Smt. Gade Vijava Lakshmi, mother of the deceased, through the APFSL for DNA profiling and comparison with the DNA profiles obtained from the exhibits and reported in FSL Report No.168395, dated 01.09.2026, to ascertain whether the blood-stained exhibits are genetically related to the deceased, Gade Sai Krishna @ Pilla Sai.

Pursuant to the Hon'ble Court orders, APFL authorities collected her blood sample for the said analysis, and the DNA examination report is awaited.

PRESENT STAGE OF THE CASE:

a. During the course of investigation, A1 to A3, A5, A6 and A7 were examined and subjected to custodial interrogation. Except for A7's disclosure regarding the CCTV/NVR tampering, the accused did not disclose any material facts relating to the commission of the offence or the whereabouts of the deceased's mortal remains.

b. A-7, upon his subsequent arrest on 11.08.2026, departed from his earlier stance (taken when examined as a witness on 26.06.2026 and reexamined on 28.07.2026) and confessed to having removed and substituted the original NVR hard disks and having removed CCTV cameras at Krishnalanka P.S. on the instructions of A-1 and A-2, as set out above.

c. In compliance with the directions of the Hon'ble Supreme Court of India in SLP (Crl.) No.12344 of 2026, dated 27.07.2026, A-1 was taken into police custody for seven days, i.e., from 30.07.2026 to 05.08.2026, and was thereafter handed over to the Superintendent, Central Jail, Rajahmundry, for further custody.

d. Pursuant to the orders of the Hon ble II Additional Judicial Magistrate of First Class, Vijayawada, in Crl.M.P.Nos. 1861/2026 and 1884/2026, dated 04.08.2026, police custody of A-2, A-3, A-5 and A-6 was granted for five days, A-2 and A-3 were in police custody from 05.08.2026 to 09.08.2026, and A-5 and A-6 from 06.08.2026 to 09.08.2026, following which they were handed over to the concerned Sub-Jails/District Jail for further judicial custody.

e. Pursuant to the orders of the Hon'ble II Additional Judicial Magistrate of First Class, Vijayawada, in Crl.M.P. Nos. 2375/2026 and 2374/2026, dated 11.09.2026, police custody of A2 and A7 was granted for two days, from 15.09.2026 to 16.09.2026. Accordingly, A2 was interrogated at the Sub-Jail, Machilipatnam, on 16.09.2026, while A7 was interrogated at the Command Control Centre, Vijayawada, on 16.09.2026. Upon completion of the interrogation, A7 was handed over to the District Jail, Vijayawada, for further judicial custody.

f. The custodial interrogation of A-1, A-2, A-3, A-5, A.6 and A-7 was completed, and their respective versions were recorded and confronted, wherever relevant, with the statements of material witnesses and other circumstances emerging during investigation. A-1 has taken a categorical denial despite admitting his position as SHO and supervisory responsibility over the Police Station. A-2 has admitted his official role, presence, familiarity with the deceased and certain vehicle-related circumstances, while professing lack of memory or knowledge of several material events. A-3, A-5, A-6 and A-7 have predominantly denied involvement while admitting their respective postings, duties and familiarity with the deceased to varying extents.

g. The statements of the accused, including their admissions, denials, claims of lack of knowledge and A-7's confession, are not being considered in isolation. Their versions are being examined and correlated with the oral, documentary,

electronic, technical, forensic and scientific evidence collected during investigation, including CDR/tower-location analysis, CCTV/NVR-related material, photographs, videos and WhatsApp communications, mobile-phone forensic extraction, General Diary and station records, vehicle-related evidence, medical material, the DNA profiling report dated 01.09.2026, witness statements and other corroborative evidence. h. The DNA Analysis Report dated 01.09.2026 in respect of the Material Objects seized from the scene of offence is under further scientific evaluation, and the report of comparison of the blood sample of L.W.1 (mother of the deceased), for which a memo was filed before the Hon'ble Court on 09.09.2026, is awaited. Reports in respect of the mobile phones of A-7 (forwarded to FLon 11.08.2026) and of witness (forwarded to FSL on 09.09.2026) are also awaited.

i. On 19.09.2026, the charge sheet was filed before the Hon'ble Court of the II Additional Civil Judge (Junior Division)-cum-II Additional Judicial Magistrate of First Class, Vijayawada.

j. It is respectfully submitted that, while the charge sheet has been filed on the basis of the material presently available on record, further investigation is continuing in accordance with Section 193(9) of the Bharatiya Nagarik Suraksha Sanhita, 2023. In this regard, certain material and reports are awaited. Upon receipt, the same will be duly scrutinized and verified, including for the purpose of corroborating the facts disclosed by A-4 during his examination at the time of arrest with the evidence already collected, tracing and apprehending any other person found to be involved in the commission of the offences, and ascertaining any further circumstances relating to the subsequent fate and death of the deceased. Necessary further action will be taken in accordance with law as part of the continuing investigation."

III. (A) Submissions of learned counsel for the petitioner:

19. Learned counsel for the petitioner submitted that in the facts of this case, an investigation by an independent agency (CBI) would be necessary to ensure complete public confidence and credibility. The

case involves an unusual and grave sequence of events. He submitted that the facts disclose that it is a case of illegal detention, custodial assault, death and disappearance of the dead body. Under such circumstances, to ensure a fair, impartial and credible investigation, CBI enquiry is necessary.

20. Learned counsel for the petitioner further submitted that there is gross violation of the fundamental right to life of the deceased Sai Krishna during police custody and personal liberty and the mandatory guidelines and the principles settled by the Hon'ble Apex Court in various of its pronouncements, at the hands of the higher police officials. He submitted that for violation of those, the petitioner would also be entitled for grant of compensation though no compensation would be adequate and would not compensate the loss of the petitioner's son.

III. (B) Submissions of learned Special Government Pleader:

21. Learned Special Government Pleader submitted that from the material on record prima facie it appears to be a case of death of Sai Krishna in police custody but as a SIT was formed which has already submitted a charge sheet, subject to the on going investigation and as the investigation has been fairly conducted, the many accused police personnel in Crime No. 107 of 2026 have been arrested, the prayer for CBI investigation is not called for especially when charge sheet has been

submitted. She submitted that for the grant of compensation the civil remedy can be resorted to and in public law remedy under Article 226 of the Constitution of India, the grant of compensation would not be an appropriate remedy. Learned Special Government Pleader submitted that the writ petition for habeas corpus deserves to be closed.

IV. Points for determination

22. In view of the submissions advanced the following points arise for our consideration:

A) Whether an investigation by CBI deserves to be directed?

B) Whether compensation deserves to be allowed to the petitioner and if yes the amount of such compensation?

To answer the aforesaid A & B points, the most relevant point would be the following point No.C, which shall be considered first.

C) Whether the present is a case of custodial violence & custodial death of Sai Krishna in police custody?

23. We have considered the submissions advanced by the learned counsels for the parties and perused the material on record including the copy of the charge sheet filed by learned special Government Pleader in sealed cover pursuant to the order dated 22.09.2026 passed in this writ petition.

V. Considerartion of Point C – Whether it's a case of custodial violence and custodial death?:

24. From the contents of the counter affidavits of respondent No.4; and the status report submitted by the SIT, Additional Superintendent of Police (Admin), investigation officer, Special Investigation Team, Vijayawada dated 14.09.2026, it is not in dispute that Gade Sai Krishna was apprehended on the intervening night of 05.05.2026 and 06.05.2026 at about 03.00 am at Markapuram. After, he was apprehended, on 06.05.02026 at about 7.00 am, his custody was handed over from one police personnel to another during sentry duty and after arrival of the then Inspector of Police of Krishnalanka Police Station, Sai Krishna and his cell phone was handed over to the Inspector of Police. As per the counter affidavit of respondent No.4, Sai Krishna was subjected to custodial torture at police station. The case Cr.No.107 of 2026 under Sections 127(4), 127(6), 103(1) and 238 of the BNS was lodged against the SHO/Inspector S.S.V.V.Nagaraj. He was placed under suspension on 17.06.2026. For investigation, SIT was constituted which has filed a chargesheet pending investigation, based on the material which could be available by that time of investigation on 19.09.2026 on the file of II Additional Civil Judge (Junior Division) – cum – II Additional Judicial Magistrate of First Class, Vijayawada. The facts on record, make it

evident that, the present is a case of custodial torture and custodial death of Sai Krishna.

25. We shall reproduce, para Nos.6,7 and 13 of the counter affidavit which read as under:

> "6. I submit that, owing to the pendency of the said Non-Bailable Warrants and the apprehension of their execution, the said Gade Sai Krishna was staying at Markapuram. Therefore, for the purpose of executing the pending NBWs, the then Inspector of Police, Krishnalanka Police Station, made a written requisition to the Assistant Commissioner of Police, Task Force, Vijayawada City, seeking deployment of Task Force personnel to assist in apprehending the said Gade Sai Krishna. Pursuant to the said requisition, the Assistant Commissioner of Police, Task Force, Vijayawada City, deputed a Sub-Inspector of Police, Task Force personnel, and Police Constable No. 2311 of Krishnalanka Police Station to Markapuram for execution of the pending Non-Bailable Warrants. The police team proceeded to Markapuram on the night of 05.05.2026 and, on 06.05.2026 at about 03:00 a.m., apprehended Gade Sai Krishna at Markapuram.
>
> 7. I further submit that, after apprehending him at Markapuram, the police team brought Gade Sai Krishna to Vijayawada and, at about 07:00 a.m. on 06.05.2026, handed him over to the Sentry Police Constable at Krishnalanka Police Station under proper acknowledgement. Thereafter, the custody of the said person was handed over from one police personnel to another during sentry duty and after the arrival of the then Inspector of Police, the said Gade Sai Krishna and his cell phone were handed over to the then Inspector of Police, Krishnalanka Police Station.
>
> ……..
>
> 13. I submit that after assuring charge as SHO, Krishnalanka Police Station, on 17.06.2026, and upon verification of the records, I found that serious allegations had been made by Smt. Gade Vijaya Lakshmi, against the then SHO of Krishnalanka Police Station, Sri S.S.V.V. Nagaraj. The complainant

alleged that her son Sri Gade Sai Krishna @ Pilla Sai was illegally detained in the Police Station and subjected to custodial torture. She further alleged that, when she visited Krishnalanka Police Station and enquired with the police personnel as well as the then Inspector/SHO, Sri S.S.V.V. Nagaraj, regarding the whereabouts of her son, they did not provide a proper response. The superior officers viewed the allegations seriously. Consequently, the then Inspector/SHO, Sri S.S.V.V. Nagaraj, was placed under suspension on 17.06.2026 and attached to Vacancy Reserve (VR), pending further proceedings."

26. In view of the material on record submitted, and as per the investigation conducted so far, the deceased was brought to Krishnalanka Police Station at about 07:00 hours on 06.05.2026 and formally handed over to the station sentry, who acknowledged receipt. Thereafter, his custody, along with his mobile phone, was entrusted to SHO of Krishnalanka Police Station. Though his apprehension was lawful, he was neither produced before the jurisdictional Magistrate within the period prescribed under the BSS, 2023, nor released from police custody thereafter. The investigation prima facie revealed violation of the safeguards under Article 22 of the Constitution of India and the BNSS, 2023. The deceased was last seen alive in police custody at Krishnalanka Police Station, after which his whereabouts remained unknown. Further, the oral, documentary, and digital evidence collected during the course of investigation, prima facie, disclosed that the deceased continued to remain in police custody beyond the period permissible under law and was not produced before the jurisdictional

Magistrate in accordance with the statutory provisions. Sai Krishna, was assaulted in police custody and sustained visible injuries. He was last seen alive at Krishnalanka Police Station. He died from the injuries sustained during the custodial assault.

27. The investigation further revealed that the original CCTV hard disks installed by the authorized vendor were removed and replaced with other hard disks. Such replacement was intended to destroy or cause disappearance of electronic evidence, relating to the detention, custodial assault, death and subsequent disposal of the body of Sai Krishna, thereby screening the offenders from legal punishment. Preliminary forensic examination of the NVR seized from Krishnalanka Police Station on 19.06.2026 revealed that CCTV footage for the relevant custody period, as well as the preceding 18 months, was unavailable, indicating tampering with or destruction of the electronic evidence. Further, to trace and identify the mortal remains of the deceased, teams were constituted for collecting details of unidentified dead bodies from Government and private hospitals, 108/112 Emergency Response Services, burial grounds and crematoria. The details from the private hospitals, of unidentified dead bodies and the persons who died during treatment between 08.05.2026 and 26.05.2026, as also the records were duly verified which verifications did not yield any information leading to the identification or recovery of the mortal remains of the deceased.

28. In the examination of witnesses (per para 14 of the status report) an RMP stated that, on 08.05.2026, he examined the deceased inside Krishnalanka Police Station and found multiple bruises and swelling. The deceased had disclosed having been assaulted by police personnel. Those circumstances were corroborated through technical, medical electronic and forensic evidence, which prima facie disclosed material circumstances concerning the deceased's custody, physical condition, subsequent use of his mobile phone by another person, and possible alteration of the scene. It prima facie established the continued custody of the deceased, his physical condition while in the custody of police personnel, subsequent efforts to create an impression of his being alive and absconding, alteration of the Crime Room, and attempts to influence the deceased's family. Thus based on the material available, it was concluded to be a case of custodial death of Sai Krishna and that the body or the remains could not be recovered.

29. The aforesaid material on record of the writ petition, therefore establishes, that Sai Krishna was subjected to custodial violence, death caused in the police custody and the dead body also done away. After Sai Krishna was apprehended, no information was given to the petitioner. He was also not produced before the Judicial Magistrate at all, violating the fundamental right of Sai Krishna enshrined under Article 22(1) & (2) of the Constitution of India, in particular.

Point A – Whether direction for CBI investigation is required?

30. Article 21 of the Constitution in its broad perspective seeks to protect the persons of their lives and personal liberties except according to the procedure established by law. The said article in its broad application not only takes within its fold enforcement of the rights of an accused but also the rights of the victim. The State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence, which may include its own officers.

31. In ***State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal,*** [1] the question was about the role of CBI in police investigation in a State without the consent of the State on the doctrine of distribution of legislative powers as between the Union and the State Legislatures, with reference to the three lists in the Seventh Schedule to the Constitution and the distribution of powers between the three organs of the State.

32. The Hon'ble Apex Court in ***Committee for Protection of Democratic Rights*** (supra) held that the Court can also exercise its constitutional power of judicial review and direct CBI to take up the investigation within the jurisdiction of the State. The power of the High

[1] (2010) 3 SCC 571

Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted, irrespective of there being any statutory provision acting as a restriction on the powers of the Union. The same cannot be read as restriction on the powers of the constitutional courts, and the exercise of power of judicial review by the High Court, would not amount to infringement of either the doctrine of separation of power or the federal structure.

33. The Hon'ble Apex Court held, that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, to CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State shall be valid in law. Being the protectors of civil liberties of the citizens, the Supreme Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.

34. The Hon'ble Apex Court however further held that while passing any order, the Courts must observe certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power requires great caution in its exercise. It is not to be ordered as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be

exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights.

35. In ***Committee for Protection of Democratic Rights*** (supra) the Hon'ble Apex Court held on the point of power, jurisdiction & duty of the Court for an enquiry by CBI in para 68 which reads as under:

> ***"Conclusions***
>
> **68.** Thus, having examined the rival contentions in the context of the constitutional scheme, we conclude as follows:
>
> (*i*) The fundamental rights, enshrined in Part III of the Constitution, are inherent and cannot be extinguished by any constitutional or statutory provision. Any law that abrogates or abridges such rights would be violative of the basic structure doctrine. The actual effect and impact of the law on the rights guaranteed under Part III has to be taken into account in determining whether or not it destroys the basic structure.
>
> (*ii*) Article 21 of the Constitution in its broad perspective seeks to protect the persons of their lives and personal liberties except according to the procedure established by law. The said article in its broad application not only takes within its fold enforcement of the rights of an accused but also the rights of the victim. **The State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence, which may include its own officers.** In certain situations even a witness to the crime may seek for and shall be granted protection by the State.
>
> (*iii*) In view of the constitutional scheme and the jurisdiction conferred on this Court under Article 32 and on the High Courts under Article 226 of the

Constitution the power of judicial review being an integral part of the basic structure of the Constitution, no Act of Parliament can exclude or curtail the powers of the constitutional courts with regard to the enforcement of fundamental rights. As a matter of fact, such a power is essential to give practicable content to the objectives of the Constitution embodied in Part III and other parts of the Constitution. Moreover, in a federal constitution, the distribution of legislative powers between Parliament and the State Legislature involves limitation on legislative powers and, therefore, this requires an authority other than Parliament to ascertain whether such limitations are transgressed. Judicial review acts as the final arbiter not only to give effect to the distribution of legislative powers between Parliament and the State Legislatures, it is also necessary to show any transgression by each entity. Therefore, to borrow the words of Lord Steyn, **judicial review is justified by combination of "the principles of separation of powers, rule of law, the principle of constitutionality and the reach of judicial review**".

(*iv*) If the federal structure is violated by any legislative action, the Constitution takes care to protect the federal structure by ensuring that the **Courts act as guardians and interpreters of the Constitution and provide remedy under Articles 32 and 226, whenever there is an attempted violation**. In the circumstances, any direction by the Supreme Court or the High Court in exercise of power under Article 32 or 226 to uphold the Constitution and maintain the rule of law cannot be termed as violating the federal structure.

(*v*) Restriction on Parliament by the Constitution and restriction on the executive by Parliament under an enactment, do not amount to restriction on the power of the Judiciary under Articles 32 and 226 of the Constitution.

(*vi*) If in terms of Entry 2 of List II of the Seventh Schedule on the one hand and Entry 2-A and Entry 80 of List I on the other, an investigation by another agency is permissible subject to grant of consent by the State concerned, **there is no reason as to why, in an exceptional situation, the Court would be precluded from exercising the same power which the Union could exercise in terms of the provisions of the statute. In our opinion,**

exercise of such power by the constitutional courts would not violate the doctrine of separation of powers. In fact, if in such a situation the Court fails to grant relief, it would be failing in its constitutional duty.

(*vii*) When the Special Police Act itself provides that subject to the consent by the State, CBI can take up investigation in relation to the crime which was otherwise within the jurisdiction of the State police, **the Court can also exercise its constitutional power of judicial review and direct CBI to take up the investigation within the jurisdiction of the State. The power of the High Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted by Section 6 of the Special Police Act.** Irrespective of there being any statutory provision acting as a restriction on the powers of the Courts, the restriction imposed by Section 6 of the Special Police Act on the powers of the Union, cannot be read as restriction on the powers of the constitutional courts. **Therefore, exercise of power of judicial review by the High Court, in our opinion, would not amount to infringement of either the doctrine of separation of power or the federal structure**.

36. Para 69 to 71 in ***Committee for Protection of Democratic Rights*** (supra) also deserve to be reproduced as under:

"69. In the final analysis, our answer to the question referred is that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, to CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. **Being the protectors of civil liberties of the citizens, this Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.**

70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution,

while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. **The very plenitude of the power under the said articles requires great caution in its exercise.** Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. **This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights.** Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.

71. In *Minor Irrigation & Rural Engg. Services, U.P.* v. *Sahngoo Ram Arya* [(2002) 5 SCC 521 : 2002 SCC (L&S) 775] this Court had said that an order directing an enquiry by CBI should be passed only when the High Court, after considering the material on record, comes to a conclusion that such material does disclose a prima facie case calling for an investigation by CBI or any other similar agency. We respectfully concur with these observations."

37. In ***Pooja Pal v. Union of India***[2], the Hon'ble Apex Court, referring to the previous decisions observed that the guarantee under Article 21 embraces both the life and liberty of the accused as well as interest of the victim, his near and dear ones as well as of the community at large and therefore, cannot be alienated from each other with levity. It is judicially acknowledged that fair trial includes fair investigation as

[2] (2016) 3 SCC 135

envisaged by Articles 20 and 21 of the Constitution of India. Though well-demarcated contours of crime detection and adjudication do exist, if the investigation is neither effective nor purposeful nor objective nor fair, it would be the solemn obligation of the courts, if considered necessary, to order further investigation or reinvestigation as the case may be, to discover the truth so as to prevent miscarriage of the justice. No inflexible guidelines or hard-and-fast rules as such can be prescribed by way of uniform and universal invocation and the decision is to be conditioned to the attendant facts and circumstances, motivated dominantly by the predication of advancement of the cause of justice.

38. In ***Pooja Pal*** (supra), the Hon'ble Apex Court further observed that the power of the constitutional courts to direct further investigation or reinvestigation is a dynamic component of its jurisdiction to exercise judicial review, a basic feature of the Constitution and though has to be exercised with due care and caution and informed with self-imposed restraint, the plenitude and content thereof can neither be enervated nor moderated by any legislation. A court of law, to reiterate has to be an involved participant in the quest for truth and justice and is not expected only to officiate a formal ritual in a proceeding far-seeing an inevitable end signalling travesty of justice. Mission justice so expectantly and reverently entrusted to the judiciary would then be reduced to a teasing illusion and a sovereign and premier constitutional institution would be

rendered a suspect for its existence in public estimation. Considering the live purpose for which judiciary exists, this would indeed be a price which it cannot afford to bear under any circumstance.

39. In ***Pooja Pal*** (supra), the Hon'ble Apex Court observed that notwithstanding the pendency of the trial, and the availability of the power of the courts below under Sections 311 and 391 of the Code read with Section 165 of the Evidence Act, it is of overwhelming and imperative necessity that to rule out any possibility of denial of justice to the parties and more importantly to instil and sustain the confidence of the community at large, CBI ought to be directed to undertake a de novo investigation in the incident.

40. In ***Legislative Council, U.P. Lucknow v. Sushil Kumar***[3], the Hon'ble Apex Court held that while issuing directions to CBI to hold an investigation, pleadings and material sufficient for CBI inquiry are to be looked into. It is required to be seen that based on such material, whether the involvement of the persons is *prima facie* established. No inflexible guidelines can be laid down to decide whether or not such power should be exercised, but the order of CBI investigation or enquiry should not be made in routine manner, on mere allegations levelled by the parties. The exercise of such power must be made sparingly, cautiously and in an exceptional situation when credibility of investigation

[3] 2025 SCC OnLine SC 2254

is in question and to repose confidence in investigation. The Court may also exercise such discretion, where the incident may have national or international ramifications, with intent to do complete justice or for enforcing the fundamental rights. Mere sweeping remarks are not enough to direct for CBI investigation, until *prima facie* disclosure of commission of criminal offence is made out. The Hon'ble Apex Court reiterated that "it is well settled that directions for CBI enquiry should not be ordered by the High Courts or this Court in a routine manner. The jurisprudence, as developed by this Court through judgments referred above, qua the direction of an investigation by the Central Bureau of Investigation (CBI) is well-settled. It imposes a significant self-restraint on the exercise of this extraordinary constitutional power under Article 32 or Article 226 of the Constitution of India. The exercise of inherent powers to direct CBI to investigate must be exercised sparingly, cautiously, and only in exceptional situations. This Court has consistently cautioned that a CBI investigation should not be directed as a matter of routine or merely because a party casts certain aspersions or harbors a subjective lack of confidence in the State police. It goes without saying that for invoking this power, the concerned Court must be satisfied that the material placed prima facie discloses commission of offences and necessitates a CBI investigation to ensure the fundamental right to a fair

and impartial investigation, or where the complexity, scale, or national ramification of such allegations demands expertise of central agency".

41. Para-14, 21 and 22 in ***Legislative Council, U.P. Lucknow*** (supra) read as under:

> "14. In view of the precedents of this Court referred hereinabove, it is evident that while issuing directions to CBI to hold an investigation, pleadings and material sufficient for CBI inquiry are required to be looked into. It is further required to be seen that based on such material, whether the involvement of the persons is *prima facie* established. This Court while issuing directions observed that no inflexible guideline can be laid down to decide whether or not such power should be exercised, but it has been reiterated that the order of CBI investigation or enquiry should not be passed in routine manner on mere allegations levelled by the parties. The exercise of such power by the High Court or by this Court must be made sparingly, cautiously and in an exceptional situation when credibility of investigation is in question and to repose confidence in investigation. **The Court may exercise such discretion**, where the incident may have national or international ramifications and **with intent to do complete justice or for enforcing the fundamental rights**. Mere sweeping remarks are not enough to direct for CBI investigation, until *prima facie* disclosure of commission of criminal offence is made out. It is further said that in the matters relating to recruitment, it would not be appropriate to direct CBI investigation in routine course unless the facts brought on record are so abnormal that shake the conscience of the Court.
>
> .....
>
> 21. Be that as it may, it is well settled that directions for CBI enquiry should not be ordered by the High Courts or this Court in a routine manner. The jurisprudence, as developed by this Court through judgments referred above, qua the direction of an investigation by the Central Bureau of Investigation (CBI) is well-settled. It imposes a significant self-restraint on the exercise of this extraordinary constitutional power under Article 32 or Article 226 of the

Constitution of India. The exercise of inherent powers to direct CBI to investigate must be exercised sparingly, cautiously, and only in exceptional situations. This Court has consistently cautioned that a CBI investigation should not be directed as a matter of routine or merely because a party casts certain aspersions or harbors a subjective lack of confidence in the State police. It goes without saying that for invoking this power, the concerned Court must be satisfied that the material placed prima facie discloses commission of offences and necessitates a CBI investigation to ensure the fundamental right to a fair and impartial investigation, or where the complexity, scale, or national ramification of such allegations demands expertise of central agency.

22. An order directing an investigation to be carried out by CBI should be treated as a measure of last resort, justified only **when the Constitutional Court is convinced that the integrity of the process has been compromised or has reasons to believe that it may get compromised to a degree that shakes the conscience of Courts or public faith in the justice delivery system.** Such compelling circumstances may typically arise **when the materials brought in notice of the court prima facie point towards systemic failure, the involvement of high-ranking State officials or politically influential persons, or when the local police's conduct itself creates a reasonable doubt in the minds of the citizenry regarding their ability to conduct a neutral probe.** In absence of such compelling factors the principle of judicial restraint demands that the Court must refrain from interfering. In other words, Constitutional Courts must exercise some degree of judicial restraint in unnecessarily burdening a specialized central agency with matters that do not satisfy the threshold of an exceptional case."

42. In ***Khursheed Ahmad Chohan v. Union of Territory of Jammu and Kashmir***[4], the Hon'ble Apex Court held that the power to transfer the investigation of a criminal case to the CBI is an extraordinary measure, which must be exercised sparingly with great caution, and only

[4] 2025 SCC OnLine SC 1491

in rare and exceptional circumstances. This jurisdiction must not be invoked lightly or in a routine fashion, but only where the facts of the case disclose necessity to ensure fairness in investigation, preservation of public faith in the administration of justice and protection of fundamental rights of the parties involved. The Court must necessarily be guided by the strict parameters laid down in binding precedents. These include, *inter alia*, where the State police authorities appear to be biased or complicit, where the investigation has been tainted by delay, irregularity, suppression of material facts, or where the complexity and inter-State ramifications of the matter necessitate the involvement of a central agency.

43. Para Nos. 18 & 23 in ***Khursheed Ahmad Chohan***(supra) read as under:

> **"18.** The settled principle of law that emerges from the abovementioned decisions is that the power to transfer the investigation of a criminal case to the CBI is an extraordinary measure, which must be exercised sparingly with great caution, and only in rare and exceptional circumstances. This jurisdiction must not be invoked lightly or in a routine fashion, but only where the facts of the case disclose a compelling necessity to ensure fairness in investigation, preservation of public faith in the administration of justice and protection of fundamental rights of the parties involved. In examining the prayer made by an aggrieved person seeking transfer of investigation to the CBI, the Court must necessarily be guided by the strict parameters laid down in binding precedents. **These include, *inter alia*, instances where the State police authorities appear to be biased or complicit, where the investigation has been tainted by delay, irregularity, suppression of material facts, or**

where the complexity and inter-State ramifications of the matter **necessitate the involvement of a central agency.**

.....

23. **We are of the considered opinion that in rejecting the writ petition, the High Court grossly erred in failing to exercise its constitutional obligation of protecting the fundamental rights of a citizen, his dignity and right to life. It failed to consider the gravity of offences committed as well as the influence that could be exerted by accused persons being police officials. There was a clear requirement and a constitutional mandate to refer the matter to the CBI** for investigation so that fair and uninfluenced investigation could be conducted. **The High Court's failure to appreciate that the accused are not ordinary citizens but police officers wielding considerable power and influence within the local administrative and investigative machinery demonstrates a fundamental misunderstanding of the dynamics of custodial torture cases. Police officers, by virtue of their position, have access to evidence, witnesses, and investigative records, and possess the institutional authority to manipulate, suppress, or destroy crucial evidence that could establish their culpability.**"

44. In ***Khursheed Ahmad Chohan*** (supra), the Hon'ble Apex Court considered ***D.K.Basu v. State of West Bengal*** {(1997) 1 SCC 416}, ***State of M.P. v. Shyamsunder Trivedi*** {(1995) 4 SCC 262} and ***Nilabati Behera v. State of Orissa*** {(1993) 2 SCC 746} which laid down the effective guidelines for police officials and emphasised the procedures to be followed during arrest and detention, to prevent custodial torture and to safeguard the rights of the accused and underscored the imperative for a thorough, impartial and effective investigation into every instance of custodial violence.

45. Para Nos. 24 to 27 in ***Khursheed Ahmad Chohan***(supra) read as under:

> **"24.** This Court has addressed the grave issue of custodial torture, inhuman treatment, and custodial deaths in a series of notable judgments including *D.K Basu* v. *State of West Bengal*[17], *State of M.P.* v. *Shyamsunder Trivedi*[18] and *Nilabati Behera* v. *State of Orissa*[19]. **This Court has not only condemned the nature and extent of such violations as affronts to human dignity and constitutional rights but has also underscored the imperative for a thorough, impartial, and effective investigation into every instance of custodial violence.** The Court has repeatedly emphasised that accountability must be ensured through proper legal and procedural mechanisms so that such acts do not go unchecked or unpunished.
>
> **25.** In *D.K. Basu* (supra), this Court, while laying down effective guidelines for police officials emphasised the procedures to be followed during arrest and detention to prevent custodial torture and to safeguard the rights of the accused. The Court noted that:
>
> > **"9. Custodial violence, including torture and death in the lock-ups, strikes a blow at the rule of law**, which demands that the powers of the executive should not only be derived from law but also that the same should be limited by law. **Custodial violence is a matter of concern. It is aggravated by the fact that it is committed by persons who are supposed to be the protectors of the citizens. It is committed under the shield of uniform and authority in the four walls of a police station or lock-up, the victim being totally helpless. The protection of an individual from torture and abuse by the police and other law-enforcing officers is a matter of deep concern in a free society**.
> >
> > 11. **"Custodial torture" is a naked violation of human dignity and degradation which destroys, to a very large extent, the individual personality. It is a calculated assault on human dignity and whenever human dignity is wounded, civilisation takes a step backward** — flag of humanity must on each such occasion fly half-mast."

26. Further, this Court in *Shyamsunder Trivedi* (supra), held that:

> **"17.** Tortures in police custody, which of late are on the increase, receive encouragement by this type of an unrealistic approach of the courts because it reinforces the belief in the mind of the police that no harm would come to them, if an odd prisoner dies in the lock-up, because there would hardly be any evidence available to the prosecution to directly implicate them with the torture. **The courts must not lose sight of the fact that death in police custody is perhaps one of the worst kind of crimes in a civilised society, governed by the rule of law and poses a serious threat to an orderly civilised society**. Torture in custody flouts the basic rights of the citizens recognised by the Indian Constitution and is an affront to human dignity. Police excesses and the maltreatment of detainees/undertrial prisoners or suspects tarnishes the image of any civilised nation and encourages the men in 'Khaki' to consider themselves to be above the law and sometimes even to become law unto themselves. **Unless stern measures are taken to check the malady, the foundations of the criminal justice delivery system would be shaken and the civilization itself would risk the consequence of heading towards perishing. The courts must, therefore, deal with such cases in a realistic manner and with the sensitivity which they deserve, otherwise the common man may lose faith in the judiciary itself, which will be a sad day**."

27. Considering the unprecedented gravity of this custodial torture case, the systematic cover-up orchestrated by local police machinery, the institutional bias demonstrated in the handling of the complaint, and the complete failure of local authorities to conduct a fair investigation and the unrelenting stand taken by the respondent State, **we are constrained to direct transfer of investigation to the CBI.** The local police at Kupwara have demonstrated complete institutional failure by first illegally detaining the appellant from 20th February, 2023, then subjecting him to barbaric and systematic torture resulting in permanent mutilation and finally refusing to register the complaint filed by the appellant's wife while simultaneously creating counter-narratives to shield the perpetrators from accountability. By

directing the very Senior Superintendent of Police, who summoned the appellant at the Joint Interrogation Centre, Kupwara, just to conduct an enquiry at such a belated stage, combined with the pendency of NDPS cases, **creates a conflict of interest, making it impossible for any fair investigation to be conducted at the local level. Only investigation by an independent agency, i.e., CBI can restore public faith in the criminal justice system, ensure that this dehumanising crime does not go unpunished, and guarantee that the truth emerges without any institutional bias or cover-up attempts. The majesty of law demands nothing less than complete independence and impartiality in investigating crimes that shock the conscience of society and violate the most fundamental principles of human dignity enshrined in Article 21 of the Constitution of India. Hence, the transfer of investigation to the CBI becomes not merely advisable but constitutionally imperative to ensure justice and uphold the rule of law**.

46. In ***Hansura Bai v. State of Madhya Pradesh***[5], the Hon'ble Apex Court held that the credibility of investigating agency should be impeachable. If the investigating agency is privy to the dispute, it may raise doubts on the credibility of investigation and thus make out a ground to transfer the investigation.

47. Para 25 & 28 in ***Hansura Bai*** (supra) reads as follows:

"25. It is settled a position of law that **credibility of investigating agency should be impeachable.** Further, the power to transfer investigations to a certain investigating agency must be sparingly used in the interest of justice and to maintain public trust on the institution. **If the investigating agency is privy to the dispute, it may raise doubts on the credibility of investigation** and thus, make out a ground to transfer the investigation. In this regard, gainful reference may be made to the decision of this Court in *Narmada Bai* v. *State of Gujarat*[4], wherein it was held as follows:

[5] 2025 SCC OnLine SC 1119

"61. In *Mohd. Anis* v. *Union of India* [1994 Supp (1) SCC 145 : 1994 SCC (Cri) 251] it has been observed by this Court that:

"*5.* … Fair and impartial investigation by an independent agency, not involved in the controversy, is the demand of public interest. **If the investigation is by an agency which is allegedly privy to the dispute, the credibility of the investigation will be doubted and that will be contrary to the public interest as well as the interest of justice.**" (SCC p. 148, para 5)

"*2.* … **Doubts were expressed regarding the fairness of the investigation as it was feared that as the local police was alleged to be involved in the encounters, the investigation by an officer of the U.P. Cadre may not be impartial**." (SCC p. 147, para 2)

62. In another decision of this Court in *R.S. Sodhi* v. *State of U.P.* [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248] the following conclusion is relevant : (SCC pp. 144-45, para 2)

"*2.* … We have perused the events that have taken place since the incidents but we are refraining from entering upon the details thereof lest it may prejudice any party but we think that **since the accusations are directed against the local police personnel it would be desirable to entrust the investigation to an independent agency like the Central Bureau of Investigation** so that all concerned including the relatives of the deceased may feel assured that an independent agency is looking into the matter and that would lend the final outcome of the investigation credibility. **However faithfully the local police may carry out the investigation, the same will lack credibility since the allegations are against them. It is only with that in mind that we having thought it both advisable and desirable as well as in the interest of justice to entrust the investigation to the Central Bureau of Investigation forthwith and we do hope that it would complete the investigation at an early date so that those involved in the occurrences, one way or the other, may be brought to book**. We direct accordingly."

63. In both these decisions, this Court refrained from expressing any opinion on the allegations made by either side but **thought it wise to have the incident investigated by an independent agency like CBI so that it may bear credibility**. **This Court felt that no matter how faithfully and honestly the local police may carry out the investigation, the same will lack credibility as allegations were directed against them. This Court, therefore, thought it both desirable and advisable and in the interest of justice to entrust the investigation to CBI so that it may complete the investigation at an early date**. It was clearly stated that in so ordering, no reflection either on the local police or the State Government was intended. This Court merely acted in public interest."

(Emphasis supplied)

…….

28. We are, therefore, convinced that this **is a classic case warranting invocation of the Latin maxim '*nemo judex in causa sua*' which means that 'no one should be a judge in his own cause'. The allegation of causing custodial death of Deva Pardhi is against the local police officials** of Myana Police Station. **The fact that the police officials have influenced the investigation right from the beginning is amply borne out from the** circumstance that even the doctors, who conducted autopsy of the dead body of Deva Pardhi, seem to have been pressurised/influenced."

48. In ***Pravat Chandra Mohanty v. State of Odisha***[6], the Hon'ble Apex Court observed and held as under :

"36. Present is a case where **the offence was committed by the in-charge of Police Station Purighat, as well as the Senior Inspector, posted at the same police station. The police of a State is protector of law and order**. The people look forward to the police to protect their life and property. People go to the police station with the hope that their person and property will be protected by the police and injustice and offence committed on them shall be redressed and the guilty be punished. **When the protector of people and**

[6] (2021) 3 SCC 529

society himself instead of protecting the people adopts brutality and inhumanly beats the person who comes to the police station, it is a matter of great public concern. The beating of a person in the police station is the concern for all and causes a sense of fear in the entire society.

37. We may refer to the judgment of this Court in Yashwant v. State of Maharashtra, wherein this Court laid down that **when the police is violator of the law whose primary responsibility is to protect the law, the punishment for such violation has to be proportionately stringent so as to have effective deterrent effect and instil confidence in the society.** The following was laid down in para 34 : (SCC p. 584)

> "34**. As the police in this case are the violators of law**, who had the primary responsibility to protect and uphold law, thereby mandating the punishment for such violation to be proportionately stringent so as to have effective deterrent effect and instil confidence in the society. It may not be out of context to remind that the motto of Maharashtra State Police is "Sadrakshnaya Khalanighrahanaya" (Sanskrit:"To protect good and to punish evil"), which needs to be respected. **Those, who are called upon to administer the criminal law, must bear, in mind, that they have a duty not merely to the individual accused before them, but also to the State and to the community at large.** Such incidents involving police usually tend to deplete the confidence in our criminal justice system much more than those incidents involving private individuals. We must additionally factor this aspect while imposing an appropriate punishment on the accused herein."

49. In ***Rubabbuddin Sheikh v. State of Gujarat***[7]. The Hon'ble Apex Court held that although the charge-sheet was submitted but considering the nature of crime that had been allegedly committed not by any third party but by the police personnel, the investigation concluded could not be said to be satisfactorily held.

[7] (2010) 2 SCC 200

50. Para 79 & 80 in ***Rubabbuddin Sheikh*** (supra) reads as under:

> **"79.** In view of our discussions made herein earlier and the submissions of the learned Senior Counsel for the parties and the amicus curiae and keeping in mind the earlier various directions given by this Court to the Police Authorities of the State of Gujarat and the materials on record, **we are of the view that although the charge-sheet was submitted but considering the nature of crime that has been allegedly committed not by any third party but by the police personnel of the State of Gujarat, the investigation concluded in the present case cannot be said to be satisfactorily held.**
>
> **80.** We have already discussed the decisions cited from the Bar on the question that after the charge-sheet being filed whether the investigation could be handed over to the CBI Authorities or to any other independent agency from the State police authorities. We have already distinguished the decisions cited by the State that they related to the power of the court to monitor the investigation after the charge-sheet was filed. The scope of this order, however, cannot deal with the power of this Court to monitor the investigation, but **on the other hand in order to make sure that justice is not only done, but also is seen to be done and considering the involvement of the State police authorities and particularly the high officials of the State of Gujarat, we are compelled even at this stage to direct the CBI Authorities to investigate into the matter. Since the high police officials of the State of Gujarat are involved and some of them had already been in custody, we are also of the view that it would not be sufficient to instil confidence in the minds of the victims as well as of the public that still the State police authorities would be allowed to continue with the investigation when allegations and offences were mostly against them**."

51. It follows clearly from ***Rubabbuddin Sheikh*** (supra) that the submission of the charge sheet or conclusion of the investigation cannot operate as a bar in directing a CBI enquiry/investigation, and particularly when the alleged commission of the offence is by the police personnel.

52. Recently, in **Lahra Bai Tamre and others vs. State of Chattisgarh and others**[8]**,** the Hon'ble Apex Court held that the ends of justice required that the investigation into the circumstances leading to the custodial death of Shri Shravan be entrusted to the Central Bureau of Investigation and that all officials found responsible for the custodial violence, upon completion of the investigation, be proceeded against and prosecuted in accordance with law and so directed for CBI enquiry in the case of custodial death.

53. The law is thus well settled that this Court in the exercise of its jurisdiction under Article 226 of the Constitution of India has power, jurisdiction and also the constitutional duty and responsibility to direct CBI investigation in appropriate cases and particularly in the cases of violation of the fundamental rights in police custody, custodial violence and custodial death due to lapses on the part of the police personnel. The role of higher officials not being unquestionable. The object, being fair and impartial investigation to build confidence and trust in the investigation and maintainance of role of law, besides the interest of victim. It is settled in law that right to fair trial flows from Articles 20 and 21 of the Constitution of India and a fair trial would include fair investigation. A court of law, has to be an involved participant in the quest for truth and justice to maintain the sovereignity and dignity of the

[8] 2026 SCC OnLine SC 1550

judicial institutions for its existence in public estimation as also to rule out any possibility of denial of justice and more importantly to instil the confidence and sustain the trust of the public at large.

54. It is true that the power is extra-ordinary and therefore there are significant self-restraint on the exercise of such power. Direction to CBI to investigate must be exercised sparingly, cautiously, not in a routine way but only in exceptional situations, where the Court must be satisfied that the material placed, prima facie discloses commission of offences of such a nature that it necessitates a CBI investigation, to ensure the fundamental right to a fair and impartial investigation, or where due to the complexity, scale, or national or international ramification of such allegations it demands expertise of the central agency.

55. In the present case we are satisfied that there are extra-ordinary situation demanding an investigation by CBI. It is a case of custodial violence and custodial death. The allegations are serious and against the police officials. The investigation by SIT though charge sheet has been filed, has yet not been completed. SIT was directed only after the petitioner approached the Court. The status report of investigation by SIT establishes that the original CCTV hard disks were removed and replaced with other hard disks. Replacement was intended to destroy or cause disappearance of evidence relating to detention, custodial assault, death and disposal of the body of Sai Krishna. Efforts were made to

create an impression of the deceased, when alive of his absconding, alternation of the crime room and also attempts to influence the family of the deceased . The possibility of institutional bias and even if it may not occur actually, its possibility in the minds of the family of the victim and the society at large, there being conflict of interest, and so an impossibility of fair investigation at hands of the police itself, doubting the credibility of investigating agency – (State police) cannot be ruled out that would be against the public interest as well as the interest of justice.

56. At this stage it shall be appropriate to refer the proceedings, in the present petition, dated 15.07.2026, 29.07.2026 and 30.07.2026.

57. I.A.No.2 of 2026 for CBI investigation was initially sought to be withdrawn by filing I.A.No.3 of 2026. However, the prayer in I.A.No.3 of 2026 mentioned, incorrectly about the ‘withdrawl of the writ petition’ and in view thereof I.A.No.3 of 2026 was rejected as withdrawn with a liberty to file fresh application. Thereafter I.A.No.4 of 2026 was filed to engage another counsel in place of learned counsel for the petitioner who had filed I.A.No.2 of 2026 for CBI enquiry. Subsequently, the petitioner made the statement that she would be represented by Ms.Rithvika Koganti, learned counsel. Thereafter any application for withdrawal of I.A.No.2 of 2026 for direction for CBI enquiry was not filed and at the time of final argument I.A.No.2 of 2026 was pressed and argued. We have

mentioned the aforesaid fact for the reason that the influence being exercised on the petitioner for withdrawal of I.A.No.2 of 2026, for direction to CBI enquiry. In the status report filed by the State as already mentioned in the preceding paras there is mention about the attempts to influence family of the deceased.

58. The custodial violence, torture and death in lock-ups, strikes a blow at the rule of law. It is a matter of great concern and more so, it is aggrevated by the fact that it is at the hands of police personnel who are supposed to be the protector of the citizens and not predators. To reiterate ***DK Basu*** (supra), custodial torture is a naked violation of human dignity and degradation. It destroys, to a very large extent, the individual personality. It is a calculated assault on human dignity and whenever human dignity is wounded, civilisation takes a step backward.

59. The submission of the learned Special Government Pleader that the SIT was constituted which conducted a thorough investigation, with fairness, which cannot be questioned. The charge sheet has also been filed, based on the material available at that stage, and so, the order for CBI investigation is not required. We are of the view that even if the charge sheet has been filed, that is no restraint for direction for CBI enquiry, in a given case, which can still be directed, on the well settled principles to maintain trust and confidence of the people in fair

investigation by an independent central agency and so ultimately in rule of law to uphold the democrate values. To reiterate, in ***Rubabbuddin Sheikh*** (supra) although the charge-sheet was submitted but considering the nature of crime that had been allegedly committed not by any third party but by the police personnel investigation by CBI was directed, in observance with the principle that justice is not only to be done, but also is seen to be done. The involvement of the State police authorities and to instil confidence in the minds of the victims as also of the public, were the considerations for direction for CBI enquiry when the allegations and offences were mostly against the state authorities.

60. The present case warrants a direction for an investigation by the CBI.

Point B – Award of compensation under Article 226:

61. In ***Nilabati Behera (SMT) Alias Lalita Behera v. State of Orissa***[9]on the point of grant of relief to the heirs of a victim of custodial death for the infraction or invasion of his rights guaranteed under Article 21 of the Constitution of India, the Hon'ble Apex Court held that it is not always enough to relegate him to the ordinary remedy of a civil suit to claim damages for the tortious act of the State as that remedy in private law indeed is available to the aggrieved party. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32,

[9] (1993) 2 SCC 746

or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution, is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The Hon'ble Apex Court held that the Supreme Court and the High Court being the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings.

62. Para Nos. 32 to 35 in ***Nilabati Behera*** (supra) reads as under:

> **"32.** Adverting to the grant of relief to the heirs of a victim of custodial death for the infraction or invasion of his rights guaranteed under Article 21 of the Constitution of India, **it is not always enough to relegate him to the ordinary remedy of a civil suit to claim damages for the tortious act of the State as that remedy in private law indeed is available to the aggrieved party.** The citizen complaining of the infringement of the indefeasible right under Article 21 of the Constitution cannot be told that for the established violation of the fundamental right to life, he cannot get any relief under the public law by the courts exercising writ jurisdiction. The primary source of the public law proceedings stems from the prerogative writs and the courts have, therefore, to evolve 'new tools' to give relief in public law by moulding it according to the situation with a view to preserve and protect the Rule of Law. While concluding

his first Hamlyn Lecture in 1949 under the title "*Freedom under the Law*" Lord Denning in his own style warned:

> "No one can suppose that the executive will never be guilty of the sins that are common to all of us. You may be sure that they will sometimes do things which they ought not to do : and will not do things that they ought to do. But if and when wrongs are thereby suffered by any of us what is the remedy? Our procedure for securing our personal freedom is efficient, our procedure for preventing the abuse of power is not. Just as the pick and shovel is no longer suitable for the winning of coal, so also the procedure of mandamus, certiorari, and actions on the case are not suitable for the winning of freedom in the new age. They must be replaced by new and up-to date machinery, by declarations, injunctions and actions for negligence…. This is not the task for Parliament … the courts must do this. Of all the great tasks that lie ahead this is the greatest. Properly exercised the new powers of the executive lead to the welfare state; but abused they lead to a totalitarian state. None such must ever be allowed in this country."

33. The old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the courts too much as protector and guarantor of the indefeasible rights of the citizens. **The courts have the obligation to satisfy the social aspirations of the citizens because the courts and the law are for the people and expected to respond to their aspirations**.

34. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, **when the court moulds the relief by granting "compensation" in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising**

the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen**. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law.**

35. This Court and the High Courts, being **the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings**. The State, of course has the right to be indemnified by and take such action as may be available to it against the wrongdoer in accordance with law — through appropriate proceedings. Of course, relief in exercise of the power under Article 32 or 226 would be granted only once it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible. The decisions of this Court in the line of cases starting with *Rudul Sah* v. *State of Bihar* [(1983) 4 SCC 141 : 1983 SCC (Cri) 798 : (1983) 3 SCR 508] granted monetary relief to the victims for deprivation of their fundamental rights in proceedings through petitions filed under Article 32 or 226 of the Constitution of India, notwithstanding the rights available under the civil law to the aggrieved party where the courts found that grant of such relief was warranted. It is a sound policy to punish the wrongdoer and it **is in that spirit that the courts have**

> **moulded the relief by granting compensation to the victims in exercise of their writ jurisdiction. In doing so the courts take into account not only the interest of the applicant and the respondent but also the interests of the public as a whole with a view to ensure that public bodies or officials do not act unlawfully and do perform their public duties properly particularly where the fundamental right of a citizen under Article 21 is concerned.** Law is in the process of development and the process necessitates developing separate public law procedures as also public law principles. It may be necessary to identify the situations to which separate proceedings and principles apply and the courts have to act firmly but with certain amount of circumspection and self-restraint, lest proceedings under Article 32 or 226 are misused as a disguised substitute for civil action in private law. Some of those situations have been identified by this Court in the cases referred to by Brother Verma, J."

63. In ***Sube Sigh v. State of Haryana***[10], the Hon'ble Apex Court considered the question as to whether the compensation should be awarded for every violation of Article 21 and held that in cases where custodial death or custodial torture or other violation of the rights guaranteed under Article 21 is established, the courts may award compensation in a proceeding under Article 32 or 226. However, before awarding compensation, the Court will have to pose to itself the following questions: **(*a*)** whether the violation of Article 21 is patent and incontrovertible, **(*b*)** whether the violation is gross and of a magnitude to shock the conscience of the court, **(*c*)** whether the custodial torture has resulted in death or whether custodial torture is supported by medical report or visible marks or scars or disability. The Hon'ble Apex Court

[10] (2006) 3 SCC 178

observed that where there is no evidence of custodial torture of a person, except his own statement, and where such allegation is not supported by any medical report or other corroborative evidence, or where there are clear indications that the allegations are false or exaggerated fully or in part, the courts may not award compensation, in a public law remedy under Article 32 or 226, but shall relegate the aggrieved party to the traditional remedies by way of appropriate civil/criminal action.

64. Para Nos. 45 & 46 in ***Sube Singh*** (supra) read as under:

> "**45.** Cases where violation of Article 21 involving custodial death or torture is established or is incontrovertible stand on a different footing when compared to cases where such violation is doubtful or not established. Where there is no independent evidence of custodial torture and where there is neither medical evidence about any injury or disability, resulting from custodial torture, nor any mark/scar, it may not be prudent to accept claims of human rights violation, by persons having criminal records in a routine manner for awarding compensation. That may open the floodgates for false claims, either to mulct money from the State or as to prevent or thwart further investigation. The courts should, therefore, while zealously protecting the fundamental rights of those who are illegally detained or subjected to custodial violence, should also stand guard against false, motivated and frivolous claims in the interests of the society and to enable the police to discharge their duties fearlessly and effectively. While custodial torture is not infrequent, it should be borne in mind that every arrest and detention does not lead to custodial torture.
>
> **46.** In cases **where custodial death** or custodial torture or other violation of the rights guaranteed under Article 21 **is established, the courts may award compensation in a proceeding under Article 32 or 226**. However, before awarding compensation, the Court will have to pose to itself the following

questions: **(*a*)** whether the violation of Article 21 is patent and incontrovertible, **(*b*)** whether the violation is gross and of a magnitude to shock the conscience of the court, (*c*) whether the custodial torture alleged has resulted in death or whether custodial torture is supported by medical report or visible marks or scars or disability. Where there is no evidence of custodial torture of a person except his own statement, and where such allegation is not supported by any medical report or other corroborative evidence, or where there are clear indications that the allegations are false or exaggerated fully or in part, the courts may not award compensation as a public law remedy under Article 32 or 226, but relegate the aggrieved party to the traditional remedies by way of appropriate civil/criminal action."

65. In **Re-Inhuman Conditions in 1382 Prisons**[11]**,** the Hon'ble Apex Court on the issue of compensation for unnatural deaths in custody held that the monitory or pecuniary compensation is an appropriate and an effective remedy for redressal of the established infringement of the fundamental right to life of a citizen by the police servant and the State's vicarious liability for their acts to which the defence of sovereign immunity is not available. Paras 41 to 48.15, 54 and 55, which read as under:

"41. The issue of compensation for unnatural deaths in custody is no longer res integra.

42. One of the earliest cases where this Court granted compensation in a petition under Article 32 of the Constitution is Rudul Sah v. State of Bihar [Rudul Sah v. State of Bihar, (1983) 4 SCC 141 : 1983 SCC (Cri) 798] . That case was not one of a custodial death but was a case of illegal detention even after acquittal in a full dress trial. This Court held that the petitioner was entitled to compensation for the illegal detention and it rejected the stale and sterile objection of the State Government that the petitioner may, if so advised, file a suit to recover damages. This Court took the view that the **refusal to pass an order of compensation would be doing mere lip service to the fundamental right of liberty of the**

[11] (2017) 10 SCC 658

petitioner under Article 21 of the Constitution which the State Government had so grossly violated. This Court observed that: (SCC p. 148, para 10)

"10. … if civilisation is not to perish in this country as it has perished in some others, too well known to suffer mention, it is necessary to educate ourselves into accepting that respect for the rights of individuals is the true bastion of democracy."

43. A little later, this Court dealt with Sebastian M. Hongray v. Union of India [Sebastian M. Hongray v. Union of India, (1984) 3 SCC 82 : 1984 SCC (Cri) 407] which concerned itself with the disappearance of some persons while in custody. This Court was convinced that enabling the respondents to trace or locate the two missing persons at such a late stage would be to shut its eyes to reality and to pursue a mirage. It appeared to this Court that the two missing persons had actually met a tragic end in an encounter amounting to an unnatural death. This Court ordered the registration of an offence and an investigation and also directed payment of compensation to the next of kin.

44. Nilabati Behera v. State of Orissa [Nilabati Behera v. State of Orissa, (1993) 2 SCC 746 : 1993 SCC (Cri) 527] was a case where a person who was taken into police custody for investigation of a theft, was found dead near a railway track the next day. On the basis of injuries and handcuffs on his wrists**, this Court concluded that it was a custodial death and compensation was awarded under Article 32 of the Constitution.** It was held that a **public law remedy was certainly available to claim compensation for the contravention of human rights and fundamental rights** which are protected as a guarantee by our Constitution. A reference was also made to Article 9(5) of the International Covenant on Civil and Political Rights, 1966 which reads:

"9. (5) Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."

45. An unnatural death in judicial custody where one person was killed by a co-prisoner was the subject-matter of discussion in Kewal Pati v. State of U.P. [Kewal Pati v. State of U.P., (1995) 3 SCC 600 : 1995 SCC (Cri) 556] . It was held that as a consequence of imprisonment, a prisoner does not cease to have constitutional rights, except to the extent he or she has been deprived of them in accordance with law. **Therefore, even a prisoner is entitled to protection and if he is killed while in prison, it results in a deprivation of his life contrary to the law, for which the next of kin are entitled to compensation.**

46. In D.K. Basu v. State of W.B. [D.K. Basu v. State of W.B., (1997) 1 SCC 416 : 1997 SCC (Cri) 92] this Court recognised that at the time of ratification of the International Covenant on Civil and Political Rights, 1966 in 1979, the Government of India made a specific reservation to the effect that the Indian legal system does not recognise a right to compensation for victims of unlawful arrest or detention and only became a party to the covenant, subject to this reservation. It was noted, however, that the reservation has lost its relevance in view of the law laid down by this Court in several cases wherein compensation has been awarded for the infringement of a fundamental right of a citizen. It was also noted that while there is no express provision in the Constitution for grant of compensation, **this right has been judicially evolved in cases of established unconstitutional deprivation of personal liberty or life.** This Court summed up the law in the following words: (SCC p. 443, para 54)

"54. Thus, to sum up, it is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty-bound to do. **The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State.** The quantum of compensation will, of course, depend upon the peculiar facts of each case and no straitjacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit."

48. In addition to the above decisions and several others rendered by this Court, **almost every High Court in the country has, at one time or another, also**

granted compensation for the unnatural death of a person in custody, whether an undertrial or a convict. A few such illustrations may be noted:

(*a*) *Nina Rajan Pillai* v. *Union of India* [*Nina Rajan Pillai* v. *Union of India*, 2011 SCC OnLine Del 2252 : (2011) 180 DLT 104]

48.1. The husband of the petitioner died in judicial custody due to inadequate medical treatment given by the jail authorities. The Lt. Governor of Delhi even appointed a Commission of Inquiry headed by Justice Leila Seth, a former Chief Justice of the Himachal Pradesh High Court to inquire into the circumstances that led to the death of the petitioner's husband. The Delhi High Court awarded compensation for the unnatural death in custody.

(*b*) *Kewalbai* v. *State of Maharashtra* [*Kewalbai* v. *State of Maharashtra*, 2013 SCC OnLine Bom 773 : (2013) 3 Bom CR (Cri) 601]

48.3. The undertrial victim died in judicial custody under suspicious circumstances. The post-mortem report indicated that the cause of death was asphyxia as a result of strangulation and ante-mortem injuries by blunt weapons. The Gauhati High Court awarded compensation for the unnatural death in custody.

(*d*) *Madhuben Adesara* v. *State of Gujarat* [*Madhuben Adesara* v. *State of Gujarat*, 2016 SCC OnLine Guj 1956]

48.4. The deceased was brutally tortured by police officers while in custody and succumbed to his injuries during treatment. The post-mortem report revealed that the victim had multiple injury marks which were ante-mortem in nature. The Gujarat High Court awarded compensation for the unnatural death in custody.

(*e*) *Banalata Dash* v. *State of Orissa* [*Banalata Dash* v. *State of Orissa*, AIR 2012 Ori 97]

48.5. The deceased was found hanging from a tree with his hands behind his back, tied at the wrist with a towel. Since the victim was in the custody of the prison authorities, compensation was awarded by the Orissa High Court for the unnatural death in custody.

(*f*) *Amandeep* v. *State of Punjab* [*Amandeep* v. *State of Punjab*, 2012 SCC OnLine P&H 19844 : (2013) 169 PLR 191]

48.6. The deceased was assaulted by a co-prisoner and succumbed to injuries in the hospital. Due to the unnatural death in custody, the Punjab and Haryana High Court awarded compensation to the next of kin of the deceased.

(*g*) *Tmt. Rohini Lingam* v. *State* [*Tmt. Rohini Lingam* v. *State*, 2008 SCC OnLine Mad 1249 : (2008) 5 MLJ 822]

48.7. The victim was murdered by his enemies while in prison. Due to the unnatural death in custody, the Madras High Court awarded compensation to his next of kin.

(*h*) *Sabu E.K.* v. *State of Kerala* [*Sabu E.K.* v. *State of Kerala*, 2016 SCC OnLine Ker 22210 : (2016) 4 KLJ 105]

48.8. The victim was tortured in a police station and succumbed to his injuries. In view of the unnatural death in custody the Kerala High Court awarded interim compensation to the next of kin of the deceased until the criminal trial against the police officers concerned was concluded.

(*i*) *Ravindra Nath Awasthi* v. *State of U.P.* [*Ravindra Nath Awasthi* v. *State of U.P.*, 2009 SCC OnLine All 337 : (2009) 2 AWC 2090]

48.9. The victim was an advocate held guilty of contempt of court. While he was undergoing his sentence, he was severely beaten up by the prison authorities and succumbed to his injuries in hospital. Due to the unnatural death in custody, the Allahabad High Court directed payment of compensation to the next of kin of the deceased.

(*j*) *Madina* v. *State of Rajasthan* [*Madina* v. *State of Rajasthan*, 2000 SCC OnLine Raj 203 : 2000 Cri LJ 4484]

48.10. The victim died in police custody on account of the use of third degree methods. Due to the unnatural death in custody, compensation was awarded by the Rajasthan High Court to the next of kin of the deceased.

(*k*) *Dukhuram* v. *State of Chhattisgarh* [*Dukhuram* v. *State of Chhattisgarh*, (2011) 3 MPHT 81]

48.11. The deceased was taken from the police station in order to recover stolen articles alleged to have been hidden by him at a secret place. He was brought to a pond and compelled to dive into the pond. At that time he was handcuffed and in chains. Subsequently, the dead body of the deceased was found floating in the pond. In view of the unnatural death, while the deceased was in the custody of police officers, the Chhattisgarh High Court awarded compensation.

(*l*) *Santosh Kumari* v. *State of H.P.* [*Santosh Kumari* v. *State of H.P.*, 2007 SCC OnLine HP 45 : 2008 ACJ 1684]

48.12. The victim died while he was in police custody and it was found that he had injuries on his head, shoulders, eyes, knees and private parts. He died in hospital as he was not given medical assistance in time. In view of the unnatural death while in custody, the Himachal Pradesh High Court awarded compensation to the next of kin of the deceased.

(*m*) *State of J&K* v. *Sajad Ahmad Dar* [*State of J&K* v. *Sajad Ahmad Dar*, 2015 SCC OnLine J&K 160]

48.13. The victim died due to cardiopulmonary arrest while detained in the District Jail under the Jammu and Kashmir Public Safety Act, 1978. It was held that death was due to carelessness, non-seriousness and negligence in not extending medical treatment. In view of the unnatural death in custody, the Jammu and Kashmir High Court awarded the compensation to the next of kin of the deceased.

(*n*) *Meena Singh* v. *State of Bihar* [*Meena Singh* v. *State of Bihar*, 2001 SCC OnLine Jhar 74 : 2001 Cri LJ 3573]

48.14. The victim was attacked and killed by co-prisoners by the use of chhura, iron rods and belts, etc. The next of kin of the deceased were awarded compensation by the Patna High Court for the unnatural death of the victim in custody.

(*o*) *Lawyers for Justice* v. *State of M.P.* [*Lawyers for Justice* v. *State of M.P.*, 2015 SCC OnLine MP 7488 : AIR 2015 MP 212]

48.15. The victim was facing trial for offences under Section 302 of the Penal Code, 1860. While he was undergoing treatment in a hospital he was shot dead by an unknown person. In view of the unnatural death while in custody, the Madhya Pradesh High Court awarded compensation to the next of kin of the victim.

66. In **Re-Inhuman Conditions in 1382 Prisons** (supra), the Hon'ble Apex Court further held as follows in paras 54 and 55:

"54. The case law indicates that over the last several decades this Court and almost every High Court has relied on Article 21 of the Constitution and thought it appropriate to compensate the next of kin for an unnatural custodial death. The constitutional courts can go on delivering judgment after judgment on this issue and award compensation, but **unless the State realises that custodial death is itself a crime and monetary**

compensation is not necessarily the only appropriate relief that can be granted to the next of kin of the deceased, such unnatural deaths will continue unabated. Therefore, what is needed is a review of all prisons with a humanitarian nuance.

55. Over the last several years, there have been discussions on the rights of victims and one of the rights of a victim of crime is to obtain compensation. Schemes for victim compensation have been framed by almost every State and that is a wholesome development. **But it is important for the Central Government and the State Governments to realise that persons who suffer an unnatural death in a prison are also victims—sometimes of a crime and sometimes of negligence and apathy or both. There is no reason at all to exclude their next of kin from receiving compensation only because the victim of an unnatural death is a criminal. Human rights are not dependent on the status of a person but are universal in nature.** Once the issue is looked at from this perspective, it will be appreciated that merely because a person is accused of a crime or is the perpetrator of a crime and in prison custody, that person could nevertheless be a victim of an unnatural death. **Hence, the need to compensate the next of kin.**"

67. In **State of A.P vs. Challa Ramakrishna Reddy and others[12],** the Hon'ble Apex Court held in paras 24, 25,26,28 to 31, which read as under:

"24. Thus, according to the definition under the Prisoners Act, **there is a convict**, there **is an undertrial** and there **is a civil prisoner** who may be a detenu under preventive detention law. **None of the three categories of prisoners lose their fundamental rights on being placed inside a prison**. The restriction placed on their right to movement is the result of their conviction or involvement in crime. Thus, a person (prisoner) is deprived of his personal liberty in accordance with the procedure established by law which, as pointed out in Maneka Gandhi v. Union of

[12] (2000) 5 SCC 712

India [(1978) 1 SCC 248 : (1978) 2 SCR 621 : AIR 1978 SC 597] must be reasonable, fair and just.

25. The rights of prisoners, including their fundamental rights have been culled out by this Court in a large number of decisions, all of which may not be referred to here. In State of Maharashtra v. Prabhakar Pandurang Sanzgiri [AIR 1966 SC 424 : (1966) 1 SCR 702 : **1966 Cri LJ 311] it was held that conditions of detention cannot be extended to deprivation of other fundamental rights** and the detenu, who had written a book in Marathi, could not be prohibited from sending the book outside the jail for its publication. In D. Bhuvan Mohan Patnaik v. State of A.P. [(1975) 3 SCC 185 : 1974 SCC (Cri) 803 : AIR 1974 SC 2092 : (1975) 2 SCR 24] it was laid down that convicts are not denuded of all the fundamental rights they possess. Chandrachud, J. (as he then was) held:

> "The security of one's person against an arbitrary encroachment by the police is basic to a free society and prisoners cannot be thrown at the mercy of policemen as if it were a part of an unwritten law of crimes. Such intrusions are against 'the very essence of a scheme of ordered liberty'."

26. In Charles Sobraj v. Supdt., Central Jail, Tihar [(1978) 4 SCC 104 : 1978 SCC (Cri) 542 : AIR 1978 SC 1514] Krishna Iyer, J. observed as under: (SCC p. 110, para 14)

> "True, confronted with cruel conditions of confinement, the court has an expanded role. True, the right to life is more than mere animal existence, or vegetable subsistence. True, the worth of the human person and dignity and divinity of every individual inform Articles 19 and 21 even in a prison setting. True constitutional provisions and municipal laws must be interpreted in the light of the normative laws of nations, wherever possible and a prisoner does not forfeit his Part III rights." (See: Charles Sobraj [(1978) 4 SCC 104 : 1978 SCC (Cri) 542 : AIR 1978 SC 1514] , AIR p. 1517, para 14)
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28. Thus, fundamental rights, which also include basic human rights, continue to be available to a prisoner and those rights cannot be defeated by pleading the old and archaic defence of immunity in respect of sovereign acts which has been rejected several times by this Court.

29. In N. Nagendra Rao & Co. v. State of A.P. [(1994) 6 SCC 205 : 1994 SCC (Cri) 1609 : AIR 1994 SC 2663] it was observed: (SCC p. 235, para 25)

> **"25. But there the immunity ends. No civilised system can permit an executive to play with the people of its country and claim that it is entitled to act in any manner as it is sovereign.** The concept of public interest has changed with structural change in the society. No legal or political system today can place the State above law as it is unjust and unfair for a citizen to be deprived of his property illegally by negligent act of officers of the State without any remedy. From sincerity, efficiency and dignity of State as a juristic person, propounded in nineteenth century as sound sociological basis for State immunity the circle has gone round and the emphasis now is more on liberty, equality and the rule of law. **The modern social thinking of progressive societies and the judicial approach is to do away with archaic State protection and place the State or the Government on a par with any other juristic legal entity**. Any watertight compartmentalisation of the functions of the State as 'sovereign and non-sovereign' or 'governmental and non-governmental' is not sound. It is contrary to modern jurisprudential thinking. The need of the State to have extraordinary powers cannot be doubted. But with the conceptual change of statutory power being statutory duty for sake of society and the people **the claim of a common man or ordinary citizen cannot be thrown out merely because it was done by an officer of the State even though it was against law and negligent. Needs of the State, duty of its officials and right of the citizens are required to be reconciled so that the rule of law in a welfare State is not shaken.** Even in America where this doctrine of sovereignty found its place either because of the 'financial instability of the infant American States rather than to the stability of the doctrine's theoretical foundation', or because of 'logical and practical ground', or that 'there could be no legal right as against the State which made the law' gradually gave way to the movement from, 'State irresponsibility to State responsibility'. In welfare State, functions of the State are not only defence of the country or administration of justice or maintaining law and order but it extends to regulating and controlling the activities of people in almost every sphere, educational, commercial, social, economic, political and even marital. The demarcating line between sovereign and non-sovereign powers for which no rational basis survives has largely disappeared. Therefore, barring functions such as administration of justice, maintenance of law and order and repression of crime etc. which are among the primary and inalienable functions of a constitutional Government, the State cannot claim any immunity."

30. The whole question was again examined by this Court in Common Cause, A Registered Society v. Union of India [(1999) 6 SCC 667 : 1999 SCC (Cri) 1196 : AIR 1999 SC 2979] in which the entire history relating to the institution of suits by or against the State or, to be precise, against the

> Government of India, beginning from the time of the East India Company right up to the stage of the Constitution, was considered and the theory of immunity was rejected. In this process of judicial advancement, Kasturi Lal case [AIR 1965 SC 1039 : (1965) 1 SCR 375 : (1965) 2 Cri LJ 144] has paled into insignificance and is no longer of any binding value.
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> **31. This Court, through a stream of cases, has already awarded compensation to the persons who suffered personal injuries at the hands of the officers of the Government including police officers and personnel for their tortious act.** Though most of these cases were decided under public law domain, it would not make any difference as in the instant case, two vital factors, namely, police negligence as also the Sub-Inspector being in conspiracy are established as a fact."

68. The law is therefore well settled that the award of compensation against the State is a proper and effective remedy for redress of an established infringement by a public servant of a fundamental right under Article 21. In cases of the custodial death, custodial torture or other violation of the rights guaranteed under Article 21 if established, this court may award compensation in proceedings under Article 226. The fundamental rights it has been well settled continue to be available even to a prisoner and those rights cannot be defeated. A convict, an undertrial, and a civil prisoner they do not loose their fundamental rights on being placed inside a prison. The accused in police custody also cannot be deprived of his fundamental rights in police custody. If such person suffers unnatural death his next kin are to be compensated. They cannot be disentitled to compensation merely because the victim who suffered custodial violence/death was an accused in an offence.

69. There is material on record, of the custodial violence and custodial death of Sai Krishna after his apprehension by the police, he was not produced before the Judicial Magistrate within 24 hours of arrest; not at all. There is established violation of the fundamental right to life and personal liberty of Sai Krishna; under Articles 21 and 22 of the Constitution of India. It is a gross violation of Article 21; of a magnitude, to shock the conscience of the court. Appropriate compensation deserves to be granted to the petitioner (mother of the deceased), in the public law remedy under Article 226 holding the State liable to pay the compensation for vicarious act of the police officials. Any monetary amount cannot restore the human life nor can compensate the loss. Awarding appropriate compensation is to apply balm to the wounds, an effective and sometimes only suitable remedy for redressal of the established infringement of the fundamental right to life and personal liberty at the hands of the public servant.

Point C (i) Amount of compensation:

70. So far as the question of determination of the compensation to be paid to the family of the victim in the case of custodial death, is concerned, in ***Prema Devi V. State of U.P., Thru. Its Prin. Secy.***[13], the High Court of Allahabad held, as per para 9, as under:

[13] 2026 SCC OnLine All 457

9. The Tripura High Court in the decision of *Rasheda Khatun* (Supra), directed the State to pay compensation for custodial death, relying upon the judgment of the Hon'ble Supreme Court in *D.K. Basu* (Supra) wherein it was observed that the purpose of compensation is to ameliorate the wound of the kin of the deceased and not to act as a deterrent for the transgressor. The relevant paragraphs of the judgment are delineated below:—

"17. For determination of the quantum of compensation we may profitably refer to the decision of the Apex Court in the case of **D.K. Basu v. State of W.B, (1997) 1 SCC 416 : 1997 SCC (Cri) 92** wherein the Apex Court has held that the objective of such monetary compensation is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence must be left to the criminal courts in which the offender is prosecuted. Observation made by the ***Hon'ble Apex Court in paragraph-54 of the judgment*** is as under:

"54. Thus, to sum up, it is now a well accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. **The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive** element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty bound to do. **That award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State.**

> **The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf.** The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, **thus, in addition to the traditional remedies and not in derogation of them**. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit."

71. In **Re-Inhuman Conditions in 1382 Prisons** (supra) various judgments of different high courts were referred on grant of compensation. In some cases, the calculation was made applying the principle for determination of compensation in Motor Vehicle Accident cases.

72. In ***Shyam Sundar v. State (NCT of Delhi)***[14] the High Court of Delhi held that the State, as custodian of life and liberty, is bound to compensate the next of kin for the infringement of fundamental rights under Article 21. The entitlement of the petitioner to compensation was held beyond dispute. Following the judgment of Bombay High Court in *Sanjeevani* v. *State of Maharashtra*, 2021 SCC OnLine Bom 3704, the Court applied the multiplier principle in terms of the dicta laid down in *Sarla Verma* (supra), while determining the compensation payable to the widow and parents of the deceased who died an unnatural death in custody.

[14] W.P.(C) 9558/2020 HC of New Delhi decided on 01.07.2026

73. However, we are of the view that it is not a case of motor vehicle accident, which is always taken as an accident not intentional but due to rash and negligent driving. We are not inclined to apply the same principle to a custodial death where there is infringement of the fundamental right to life and personal liberty under the constitution and particularly when it's a custodial death at the hands of public servant. Recently in ***Lahra Bai Tamre v. State of Chattisgarh***[15], the Hon'ble Apex Court, directed the compensation of Rs.25,00,000/- in the case of custodial death, as an interim measure. Following the same.

VI. Reforms/preventive measures:

74. Before parting, we would refer to the following few judgments in which the Hon'ble Apex Court issued guidelines and directions intended towards reforms to improve the situation for enforcement of the fundamental rights.

75. In **D.K. Basu vs. State of W.B[16],** the Hon'ble Apex Court issued the following requirements to be followed in all cases of arrest or detention till legal provisions were made in that behalf as preventive measures, vide Para 35:

> "(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all

[15] 2026 SCC OnLine SC 1550
[16] (1997) 1 SCC 416

such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The “Inspection Memo” must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the

> panel of approved doctors appointed by Director, Health Services of the State or Union Territory concerned. Director, Health Services should prepare such a panel for all tehsils and districts as well.
>
> (9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Illaqa Magistrate for his record.
>
> (10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
>
> (11) A police control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board."

76. In **D.K. Basu** (supra), the Hon'ble Apex Court held that the above requirements flow from Articles 21 and 22(1) of the Constitution and need to be strictly followed and that those requirements are in addition to the constitutional and statutory safeguards and do not detract from various other directions given by the courts from time to time in connection with the safeguarding of the rights and dignity of the arrestee. The Hon'ble Apex Court observed further that the failure to comply with the above requirements shall apart from rendering the official concerned liable for departmental action, also render him liable to be punished for contempt of court and the proceedings for contempt of court may be instituted in any High Court of the country, having territorial jurisdiction over the matter.

77. In ***Sube Singh*** (supra) the following observations were made and the steps were suggested to improve the preventive measures:

"***Improving the present situation***

48. Unfortunately, police in the country have given room for an impression in the minds of public, that whenever there is a crime, investigation usually means rounding up all persons concerned (say all servants in the event of a theft in the employer's house, or all acquaintances of the deceased, in the event of a murder) and subjecting them to third-degree interrogation in the hope that someone will spill the beans. **This impression may not be correct, but instances are not wanting where police have resorted to such a practice**. Lack of training in scientific investigation methods, lack of modern equipment, lack of adequate personnel and lack of a mindset respecting human rights, are generally the reasons for such illegal action. One other main reason is that the public (and men in power) expect results from police in too short a span of time, forgetting that methodical and scientific investigation is a time-consuming and lengthy process. Police are branded as inefficient even when there is a short delay in catching the culprits in serious crimes. **The expectation of quick results in high-profile or heinous crimes builds enormous pressure on the police to somehow "catch" the "offender"**. The need to have quick results tempts them to resort to third-degree methods. They also tend to arrest "someone" in a hurry on the basis of incomplete investigation, just to ease the pressure. **Time has come for an attitudinal change not only in the minds of the police, but also on the part of the public.** Difficulties in criminal investigation and the time required for such investigation should be recognised, and police should be allowed to function methodically without interferences or unnecessary pressures. **If police are to perform better, the public should support them, Government should strengthen and equip them, and men in power should not interfere or belittle them**. The three wings of the Government should encourage, insist and ensure thorough scientific investigation under proper legal procedures, followed by prompt and efficient prosecution. Be that as it may.

49. Custodial violence requires to be tackled from two ends, that is, by taking measures that are remedial and preventive. Award of compensation is one of the remedial measures after the event. Effort should be made to remove the very causes, which lead to custodial violence, so as to prevent such occurrences. Following steps, if taken, may prove to be effective preventive measures:

(*a*) Police training should be reoriented, to bring in a change in the mindset and attitude of the police personnel in regard to investigations, so that they will recognise and respect human rights, and adopt thorough and scientific investigation methods.

(*b*) The functioning of lower level police officers should be continuously monitored and supervised by their superiors to prevent custodial violence and ensure adherence to lawful standard methods of investigation.

(*c*) Compliance with the eleven requirements enumerated in *D.K. Basu* [(1997) 1 SCC 416 : 1997 SCC (Cri) 92] should be ensured in all cases of arrest and detention.

(*d*) Simple and foolproof procedures should be introduced for prompt registration of first information reports relating to all crimes.

(*e*) Computerisation, video-recording and modern methods of record maintenance should be introduced to avoid manipulations, insertions, substitutions and antedating in regard to FIRs, mahazars, inquest proceedings, post-mortem reports and statements of witnesses, etc. and to bring in transparency in action.

(*f*) An independent investigating agency (preferably the respective Human Rights Commissions or CBI) may be entrusted with adequate power, to investigate complaints of custodial violence against police personnel and take stern and speedy action followed by prosecution, wherever necessary.

The endeavour should be to achieve a balanced level of functioning, where police respect human rights, adhere to law, and take confidence-building measures (CBMs), and at the same time, firmly deal with organised crime, terrorism, white-collared crime, deteriorating law and order situation, etc.”

78. In ***Arnesh Kumar v. State of Bihar***[17] , the Hon'ble Apex Court held as under:

> **10.** We are of the opinion that if the provisions of Section 41 CrPC which authorises the police officer to arrest an accused without an order from a Magistrate and without a warrant are scrupulously enforced, the wrong committed by the police officers intentionally or unwittingly would be reversed and the number of cases which come to the Court for grant of anticipatory bail will substantially reduce. We would like to emphasise that the practice of mechanically reproducing in the case diary all or most of the reasons contained in Section 41 CrPC for effecting arrest be discouraged and discontinued.
>
> **11.** Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following directions:
>
> **11.1.** All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;
>
> **11.2.** All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(*b*)(*ii*);
>
> **11.3.** The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
>
> **11.4.** The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;
>
> **11.5.** The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the

[17] (2014) 8 SCC 273

Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

79. In ***Mihir Rajesh Shah v. State of Maharashtra***[18], the Hon'ble Apex Court held as under:

62. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in *flagrante delicto*, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate.

*** * ***

[18] (2026) 1 SCC 500

66. In conclusion, it is held that:

66.1. The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC, 1860 (now BNS 2023);

66.2. The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

66.3. In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the Magistrate.

66.4. In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.

80. In ***Vihaan Kumar v. State of Haryana***[19], the Hon'ble Apex Court held as under:

26. Therefore, we conclude:

26.1. The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

26.2. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

26.3. When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the investigating officer/agency to prove compliance with the requirements of Article 22(1);

[19] (2025) 5 SCC 799

26.4. Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge-sheet and trial. But, at the same time, filing of charge-sheet will not validate a breach of constitutional mandate under Article 22(1);

26.5. When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

26.6. When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

81. We have referred **D.K. Basu** (supra), ***Sube Singh*** (supra) ***Arnesh Kumar*** (supra), ***Mihir Rajesh Shah*** (supra) and ***Vihaan Kumar*** (supra) of the Hon'ble Apex Court, laying down the guidelines and principles to be followed in the case of arrest as also for improving the situation so as to avoid and raising the cases of custodial violences or custodial death for strict observance/compliance and for reminder to all the concerned that custodial death is itself a crime and its duty of State like in any other crime to prevent and ensure that the predators do not escape unpunished.

VII. Result:

82. In the result

i) I.A.No.2 of 2026 is allowed. We direct the investigation into the circumstances leading to the custodial death of Sai Krishna, to be entrusted to the Central Bureau of Investigation and that all officials found responsible for the custodial violence, upon completion of the investigation, be proceeded against and prosecuted in accordance with law.

ii) The Director, CBI, New Delhi shall forthwith ensure registration of a regular criminal case in relation to the custodial death of Sai Krishna. The investigation shall be entrusted to a senior officer of CBI and shall be conducted expeditiously.

iii) The Director General of Police, Andhra Pradesh, shall ensure that the complete records of the case are transmitted to the Director CBI, New Delhi through a special messenger within a week from today.

iv) The State Government shall make the payment of compensation of Rs.25,00,000/- (Rupees twenty five Lakhs only) to the petitioner, within a period of 4 weeks from today. The compensation amount shall be paid into the bank account of the petitioner.

v) The State Government shall initiate the disciplinary proceedings against the erring police personnels under the applicable Service Rules.

83. Writ petition is allowed in the aforesaid terms.

As a sequel thereto, other pending miscellaneous petitions, shall also stand closed.

RAVI NATH TILHARI,J

ALAPATI GIRIDHAR,J

Dated: 16.10.2026
Note: LR copy to be marked
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION No.15132 of 2026

Dated: 16.10.2026
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