

## Lahori Gate Police Station

# A Murder in Police Custody

On May 1, sometime around midnight two young men were picked up by a constable, Anil Kumar, and taken to P.S. Lahori Gate. Both the young men were employed in shops in the Khari Baoli area. Reportedly the constable had "secret information" that the young men, were involved in "running a brothel". While one of them was released the next morning, the other Jagan Nath was detained till afternoon when he collapsed. He was admitted in St. Stephen's Hospital in the evening. Eight days later he died, on May 10.

Jagan Nath, aged 34, had been working as a peon cum chowkidar in a firm dealing in perfumes for the last 18 years. His father, is a Nepali migrant who has settled in Delhi since 1948. For about 30 years he lived with his family in Jaipuria building (cloth bazaar, Fatehpuri area) with his family — wife, two sons (Jagan Nath and Om Prakash) and a daughter. All his children are now married. He is now in his sixties and works as a peon with a lawyer's firm.

Jagan Nath, his wife and two small children, lived with his parents. Jagan Nath's routine was to come home for meals after the shops closed for meals and then returned at night to sleep at the premises. Sometimes on weekends his wife and children joined him there.

All available testimony affirms that Jagan Nath had a good moral character. This includes both his own and his father's employers.

When Jagan's father arrived with meals for his son on the morning of May 2, he found to his surprise that the premises were locked. On learning that his son had been picked up and taken to the Lahori Gate thana sometime during the night, he immediately rushed there accompanied by a local youth. For he was too scared to go to the thana by himself. After some enquiries he found his son in an upstairs room in which some policemen were present. The son was in bad shape.

The constable named Anil Kumar asked for Rs. 500/- for the release of Jagan Nath. The father went around to raise the sum and returned with the money around 11 a.m. But now the constable was away. Finally around 2 p.m. he found the constable had returned. But then the amount was raised to Rs.

5,000/- by the constable Anil Kumar after learning that the father was also employed and earned money (a meagre amount of Rs. 500-600. This time, in front of his father, Jagan Nath was beaten by the constable Anil Kumar. Jagan Nath started vomiting blood. But he managed to tell his father: *Main bilkul be-kusoor hoon, isko paise mat dena* (I am totally innocent, do not give him money). These were the last words Jagan Nath spoke. He suffered convulsions and became unconscious.

After this began the search for medical aid. The police insisted on taking him to a private doctor. But in the afternoon all private clinics were closed. The group, the father in a rickshaw propping up Jagan, the constable Anil Kumar and a home guard, went through the busy streets of Naya Bans, Farash Khana, Haiderkuli from one closed clinic to another. At one place the police got hold of a "compounder" who declared that Jagan Nath was suffering from an epileptic fit. Finally a taxi was hired at Fatehpuri and the group went to Irwin (L.N.J.P.) Hospital. But the taxi was made to stop some distance from the casualty entrance and the policemen told the father to proceed alone and get his son admitted. He was also told to state that his son had been ill for the past 3-4 days. He refused and the group came back to Fatehpuri. At some point now, around 4 p.m., he managed to phone his employers who immediately came to his help.

His employer sent his assistant, to accompany the group. Instructions were received from the thana to proceed to St. Stephen's Hospital where finally Jagan Nath was admitted. The names of constable Anil Kumar, the Home Guard, the father and the advocate were listed as persons admitting the patient. An MLC was registered. Subsequently Jagan Nath underwent brain surgery. The operation was done by Dr. Kumar. But Jagan Nath did not regain consciousness and died on May 10. Post mortem was done at Maulana Azad Hospital.

The cost of hospitalisation and operation, Rs. 12,000 to 14,000, was paid by Jagan's employers against his funds with the company. The family refused all offers of financial assistance made by the police.

Enquiries with the police reveal that no Daily Diary (D.D.) or F.I.R. complaint was lodged against Jagan Nath. There are no records of his being detained at the thana though he was in custody from 10-14 hours. The S.H.O., Mr. R.S. Ghaiya, claims that he had no knowledge of what was happening till Jagan Nath was admitted to hospital. He was unable to clearly state charges against Jagan Nath. From the "running of brothel" the charge seems to have shifted "hiring prostitutes". Nor was he able to give a convincing answer as to why Jagan Nath was taken to a private hospital rather than to a government hospital, which is normally done in such cases. He was also unable to answer why only one of the two detained "suspects" was released though both were picked up on the same charges. (There are reasons to believe that the police

received payment for this release.) But the S.H.O. acknowledges that constable Anil Kumar had demanded money for the release of Jagan Nath. The S.H.O.'s attempts to gain as well as part with information seems to be highly selective.

PUDR has no access to the MLC, medical records, and post mortem report. According to the S.H.O. the causes of death could have been brain tumor, weak nerves, history of blood pressure or injury. According to the DCP, Mr. B.S. Bassi, banging of Jagan Nath's head against a wall could have caused injury.

The police made an offer to pay Rs. 50,000 to 60,000 for Jagan Nath's treatment. After his death, offer of a respectable job earning Rs. 1200 to 1500 in some guest house around the thana was made to his widow. According to the S.H.O., these offers were made on "humanitarian grounds".

### Some Disturbing Questions

The following questions and issues arise from the investigation reported above.

#### 1. Why was Jagan Nath arrested?

There exist still no evidence or record with the police as to the charges made against Jagan Nath. (It may be pointed out here that the charges reportedly made by the constable Anil Kumar are different from those given by the S.H.O.) This clearly indicates that police itself is vague concerning the charges and unable to produce any evidence. Moreover there was no D.D./F.I.R. on the basis of which Jagan Nath was kept in custody. It should be noted that the detained person who was in the same position relating to charges was released.

#### 2. Corruption

The police admit that the constable Anil Kumar demanded money for the release of Jagan Nath. Offers made by the police to pay for medical treatment and provide a job for the widow are clearly an attempt to hush up matters.

#### 3. How did Jagan Nath die?

Jagan Nath was in perfect health when he left home around 9 p.m. on May 1. But 12 hours later when his father saw him, he was in bad shape. He seems to have been severely beaten and tortured during the night. Further, in the presence of his father, he was beaten in the afternoon at which point he vomited blood and collapsed, never to recover. Even the police do not rule out the possibility of injury causing his death. Such injury was admittedly sustained in police custody itself.

As to the possibility of "other reasons" such as prior medical history, it should be noted that in most of the previous cases of custodial death, official cause of death as given by the police is either heart attack, a stomach ache or even a sudden attack of tuberculosis. Such alleged

reasons are highly dubious.

4. Did Jagan Nath die in custody?

Custodial death does not only mean that a person should die in the premises of a police station. The very involvement of police personnel in causing death makes it custodial. If the initial interaction of the police is in pursuance of official duties that it becomes a custodial death. Here note may be taken of the Anand Parbat case (AIR 1990 SC-513) of Saheli, PUDR and others Vs Commissioner of Police. PUDR won the case even though the death of a boy Naresh, aged 9, took place at his house. It was treated as a custodial death as he died due to beating by two policemen.

### Recommendations

On the basis of the investigation PUDR recommends that charges under relevant sections of Cr.P.C. and I.P.C. be made against the police for violations of the law in the arrest, detention torture and death of Jagan Nath.

1. Custodial Death: Charges under Sections 299, 300, 304, 304-A and 308 I.P.C. be instituted against the involved police for causing death in custody. (Annexure II)
2. Illegal Detention and Torture: Torture of any person taken to a police station in connection with any offence is a direct violation of Article 21 of the Constitution and Sections 330 and 331 I.P.C. (Annexure II)  
The Supreme Court has held torture illegal in a number of cases: Nandini Satpathy Vs State of Orissa (AIR 1978 SC-1025), Sunil Batra Vs State (AIR 1978 SC-1678), Khatri Vs State of Bihar (AIR 1981 SC 1068).  
PUDR recommends that police involved in illegal detention of Jagan Nath be charged under Sections 330 and 331 I.P.C.
3. Procedural Violations: Procedures specified in law (Chapter XII, Cr.P.C.) in respect to arrest, investigation, recording of arrest etc. have not been followed in the detention of Jagan Nath. The responsibility for procedural violations lies with the S.H.O.. Hence PUDR recommends that a departmental inquiry be instituted against the S.H.O..
4. Violations under Corruption: Corruption by police officials violates Section 161 I.P.C. The involved police should be charged under this. (Annexure II)
5. The post mortem report should be made available to the family of Jagan Nath and to PUDR.

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