

**CUSTODIAL DEATH OF SURAJ PRAKASH,
ADARSH NAGAR POLICE STATION, DELHI**
Five Months After

An Updated Report by

Peoples Union for Democratic Rights (PUDR)
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Suraj Prakash Pawar, a 32-year-old man from Majlis Park in North West Delhi, died on 27 November 2023 in police custody at the Adarsh Nagar Police Station (henceforth, PS). The press reported that Suraj sought to intervene in a traffic-related brawl involving two cars on the road near Azadpur Mandi and Adarsh Nagar Metro Station in the early hours of 27 November. A police team arrived shortly and attempted to separate those involved in the brawl. An Emergency Response Vehicle (ERV) summoned by the police took Suraj Prakash and two persons involved in the fight to Adarsh Nagar PS where Suraj died. Press reports at the time stated that Suraj Prakash's family and eyewitness accounts indicated that he was beaten by the police and died as a result of it. A magisterial inquiry has been initiated into the death and is continuing till the present, five months after his death in custody.

A team from PUDR carried out a fact-finding investigation in the course of which it met the family and an eyewitness, and also met the police. Following is its interim report.

FAMILY AND EYEWITNESS VERSION

Suraj Prakash, called Aashu by his family, was the middle son of C.P. Pawar, a retired government servant. He had grown up in Majlis Park. He had obtained a diploma in printing technology from the Pusa Institute, and had also done an Industrial Training Institute (ITI) course. He had done different kinds of work over the years. Less than a month before his death he had begun to work with his friend Saket Chaudhary, a *paneer* wholesaler/*arhatia* in Azadpur Mandi, with the intention to learn on the job to take it up as his future profession. His mother had passed away 6 years earlier. His elder brother Deep Prakash works as a supervisor in a printing business, and his younger brother is a University student. A well-liked and popular young man, Suraj was strong, tall, well-built and in good health.

On 27 November, when Suraj did not return home by the usual time from the *mandi*, his father called his and Saket's phones at about 5:00 am and got no response. At about 6:00 am Saket came to their house and told them that Suraj was in the Adarsh Nagar Police Station and had been beaten by the police. Suraj's father and elder brother rushed to the Police Station where they met the SHO (V. Meena) and asked him about Suraj's whereabouts. The SHO then told him words to the effect that "What had to happen has happened" and that Suraj had died. The family members insisted on seeing Suraj and were directed to the Babu Jagjivan Ram Memorial (BJRM) hospital. They identified his body there and saw that his body had injury marks and his hand was broken. In the hospital the SHO began to ask Suraj's father if Suraj had any previous ailment, got 'fits' etc., which Mr. Pawar vehemently denied.

The Incident

According to the account of the key eyewitness and Suraj's friend, Saket, whom the PUDR team met, the incident occurred at about 3:00 am on 27 November. Suraj and Saket had finished unloading the *paneer* supply from the truck, got it cut, made arrangements for the next day, and were heading home in Suraj's car when they reached the site of the traffic snarl and brawl on their way. Confronted with the brawl, Suraj stopped his car on the side of the road and stepped out, intending to resolve the fight. However, the policemen, who were already present, started beating him, with *lathis* and by hand, and also kicking him. Suraj defended himself and demanded as to why he was being attacked. He took out his phone and started shooting a video even as they continued to beat him, stating in his video recording that the policemen beating him were reeking of alcohol. His family holds that Suraj

was quite strong but did not hit the policemen back because he respected the uniform, which was also why he was making the video. In retaliation, the policemen started beating Suraj further. They taunted him saying words to the effect that since he fancied himself as a ‘cameraman’ they would make him a (film) ‘hero.’ The policemen continued to beat Suraj mercilessly for almost 20 minutes injuring his hand and subsequently rained heavy blows on his body including his back. The initial blows were inflicted by the two policemen who were already there. They were joined by six or seven policemen who arrived in the ERV which had been summoned to the spot and together they inflicted violence upon Suraj. By the time the ERV arrived, one of the parties in the road accident, i.e. one of the cars in the traffic fight, had left. Suraj, now badly beaten, was taken to Adarsh Nagar Police Station, along with two men involved in the fight (who were in the remaining car that had been involved in the traffic fight). These two men, who were from Bhajanpura, had also been beaten by the police and one of them later told Suraj’s family at the Police Station that his eardrum had been possibly ruptured in the process. At the PS, the police confiscated Suraj’s phone and did not let him contact his family.

Suraj was then taken by the police to the Babu Jagjivan Ram Memorial (BJRM) Hospital in Jahangirpuri. A doctor later informed the press that looking at the critical condition Suraj was in, the hospital advised him to be taken to another bigger hospital like AIIMS or Safdarjung for appropriate treatment. The police disregarded their advice and took Suraj back to the PS after his hand, which got injured due to the beating, had been bandaged. Suraj was still not given his phone back or allowed to contact his family. Meanwhile, Suraj’s friend Saket, who had moved away from the melee on the road to avoid being beaten up by the police, went to the PS at about 4:00 - 4:30 am, only to learn that Suraj was in a worsened condition. When he asked about Suraj’s condition he was ordered to wait and when he asked questions, his phone was confiscated, and the police began to demand Rs. 5000 to return it and let him go. Saket told them that he did not have that much money. However even as this was going on, Suraj was brought back to the PS after the initial medical check-up and it was evident that he was in a bad condition. Suraj, in fact, complained to Saket that the police had broken his arm and spoke about how bad he was feeling. Suraj asked for water but this was not given to him by the police. Shortly thereafter, Suraj’s condition deteriorated and he collapsed. He was taken to the hospital again where he was declared ‘brought dead’.

Saket managed to get his phone back from the police as they took Suraj to the hospital after he collapsed and he then informed Suraj’s father (as mentioned previously), and the latter went to the PS and then to the hospital. Suraj’s father returned to the PS and was waiting there for the Magistrate’s visit when he was able to see the footage from the Police Station CCTVs which was being reviewed by the police. The CCTV footage showed a badly injured Suraj breathing laboriously after returning from the hospital and fainting.

The SHO’s query to Suraj’s family when he met them in the hospital, about whether Suraj had a prior medical problem, and his subsequent suggestion to the family that Suraj could have been involved in a ‘gang war’ – both raise grave suspicion about the role of the police. While Suraj’s family angrily refuted these suggestions, they later learnt that the police had also raised the question of possible ‘gang’ involvement with the person in the car at the site of the brawl, whom they had picked up and beaten up. They tried to impute that he was part of a gang, which he too strongly denied. It must be noted that Suraj had no previous cases against him, and no prior history of criminal involvement whatsoever. It appears that the police were already trying to manufacture a story to account for Suraj’s death, from that early stage – strongly suggesting their complicity in it.

Returning to the Police Station after their visit to the hospital on the morning of 27 November 2023, Suraj Prakash’s family members also confronted the police about denying him water when he was injured. The police responded by refuting the allegation casually, and showing them the video footage of them throwing water on Suraj’s face after he collapsed, said that this was evidence that they had in fact given him water! Further evidence of the callousness of the police can be seen in the SHO’s response when the family asked him why Suraj had not been taken to a bigger hospital as directed by the doctors at BJRM Hospital the first time. The SHO said that his constable could not read English, and therefore, could not understand the doctor’s instructions. In fact, according to the press, the police have blamed the hospital for Suraj’s early discharge when he was taken there for the first time. More doubts about the role of the police at Adarsh Nagar PS also arise from the fact that after the incident, when Suraj’s family asked for his phone, they claimed they were unable to locate it. At the same time, they kept asking the family members for the password to unlock Suraj’s phone. These statements by the SHO suggest that he was trying to cover up the complicity of his police personnel in Suraj’s murder. These instances, and other

reports on custodial death cases by PUDR over the years, suggest that there is a tendency among the police to frustrate the development of the case by creating differing and vague accounts to explain the deaths as anything but the consequence of routine custodial violence.

MAGISTERIAL INQUIRY AND POLICE INVESTIGATION

As per protocol in case of custodial deaths, a magisterial inquiry was initiated under S. 176 (1A) of the Code of Criminal Procedure (CrPC). The Judicial Magistrate from the Rohini Court (Metropolitan Magistrate Himanshu Sehloth) came to the Police Station later that morning (27 November) to begin the inquiry. The Magistrate questioned the police and also recorded testimonies of Saket Chaudhary and the other youth who had been beaten up and witnessed the police beating Suraj. A Test Identification Parade was also conducted in which Saket was asked to identify one of the policemen. He was later able to point out three policemen to the family, and the latter have been able to find out the names of two of them. Given the power of the police in the area and the fear they invoke, the family and eyewitnesses are unable to declare these to the authorities. The Magistrate recorded the statements of Suraj's father Chandra Prakash and brother Deep Prakash the next day (28 November) in his Court.

The family stated that the Metropolitan Magistrate assured them at that time of a fair investigation and has communicated that while more investigation is needed, it was clear that Suraj was beaten. The family also stated that the doctor at BJRM Hospital said that Suraj was better before, in that he could walk when he came to the hospital the first time. The post-mortem was carried out at the Safdarjung Hospital by a board of doctors, duly videographed on 29 November, and his cremation took place that evening. A large number of policemen and CRPF personnel were present on the road when Suraj Prakash's body was brought to the house from the hospital and then taken for cremation. The family is yet to get the post-mortem report. Suraj's phone, the record of CCTV cameras on the road where the incident occurred, those inside the PS, and other evidence have been submitted to the Magistrate. His car was in the custody of the police. When it was released a few weeks after his death, the police initially demanded that the family pay them, on the pretext that payment is made in cases of vehicles involved in an accident. The family had to remind them strongly of the circumstances of the case and Suraj's death to get Suraj's car.

Courts have commented on attempts by the police to shield those guilty of custodial torture. As the [Supreme Court noted](#) in its 1995 judgment, *State of MP vs. Shyamsundar Trivedi*, "...rarely in cases of police torture or custodial death, direct ocular evidence of the complicity of the police personnel would be available. Generally speaking, it would be police officials alone who can only explain the circumstance in which a person in their custody had died. Bound as they are by the ties of brotherhood, it is not unknown that police personnel prefer to remain silent and more often than not pervert the truth to save their colleagues."

In the case of the death of Suraj Prakash in the custody of Adarsh Nagar PS, these 'ties of brotherhood' are visible in the way the police have been shielding their own. The DCP North West informed PUDR that a police investigation by police from another Police Station is underway in the matter and the Magisterial inquiry is still underway five months after the incident, since the Magistrate is questioning many of those present in the brawl on the road on 27 November 2023. The police could not, therefore, tell the PUDR team anything further officially.

The police however, informed the team that while the policemen who had been involved in the beating were removed temporarily and informally from the area for a very short while immediately after the incident, they were not formally transferred. The DCP stated that these policemen returned to their posts shortly after the incident, and indicated that action – including transfer – could only be taken against them if they were to be indicted in the Magisterial inquiry. He stated that any action against them before the outcome of the Magisterial inquiry would put to question the logic of police action in the line of duty, since police personnel were involved in stopping a brawl. This reasoning offered by the DCP is flawed because the Magisterial inquiry is not meant to ascertain the role of police in the incident, but only the cause of death (See, [Sushil Kumar Nayak v. State of Odisha, 2017](#), paras 10-15). Among policemen who know of the matter, this unofficial narrative – that the policemen were only exercising force in the line of duty and that Suraj heart suddenly 'failed' – seems to be informally shared.

Civil society or human rights groups, and the families of the victims of custodial deaths, therefore, tend to put their faith in Magisterial inquiries, in the hope that they will bring justice, in cases of custodial death. The same

is true of the present incident. It must be noted however, that the Magistrate usually also relies substantially on the police, and the initial evidence is also collected by them and submitted to the Magistrate. The Magisterial inquiry, in order to be fair, must be cognizant of the power that the police exercise on the ground - when, as in the present case - the accused policemen officially remain in the same PS and continue to move about in the area, potentially pressurise witnesses and the family, and influence the collection of evidence. This power of the police in turn would not allow the truth to be established if the police are guilty. In such cases of custodial violence and death, where police are accused, it is crucial that due protection be extended to witnesses and families of victims. Saket, the eyewitness in the present case, had expressed his concerns for his safety in this regard to the PUDR team. The Magisterial inquiry must take cognizance of this and the judiciary must make provisions to ensure protection of witnesses, including from the pervasive power of the police. Only then can a fair and free investigation take place in cases of custodial violence or death, and guilty police persons can be identified and punished.

The other most crucial point that must be remembered in this case is that Suraj Prakash's death took place when he was in "custody," as has been defined several times in Court judgments. For instance, in the case of *Niranjan Singh*, the Supreme Court had said that a person can be said to be in "custody" when he is "in the physical hold of an officer with coercive power (see, *Niranjan Singh & Anr vs Prabhakar Rajaram Kharote & Ors*, 1980). Recently, the Supreme Court has stated that "...as soon as an accused or suspected person comes into the hands of a police officer, he is no longer at liberty and is under a check, and is, therefore, in "custody"...the expression "custody" has been held...to include surveillance, restriction or restraint by the police."

For the family of the victim, in the present case as well as in others, after such an instance, there is little they can do to actively get justice. Since the police and administration control the established procedure in law in the case of custodial deaths, they can only wait for the Magisterial inquiry to be completed. They often do not know what they are entitled to - for instance, Suraj Prakash's family has not been given access to the post mortem report, even five months after the incident, and has been wrongly told that it can only be given to them after the Magisterial inquiry report is finalised. From this kind of simple awareness (of what documents they are entitled to) to more fundamental matters of how to ensure that those guilty for the custodial killing of their loved one are identified and prosecuted, family members of victims are entirely reliant, ironically on whatever the police and state authorities choose to tell them. In many instances of custodial death where the victims belong to the disadvantaged sections of society, it is difficult for them to follow up on everything and fight for justice. In matters of police custodial death and violence, there is often very little accountability in the system towards the family members of the victims and citizens.

It must be noted that even if the Magisterial inquiry report indicts the police and an FIR is ordered to be lodged against the policemen guilty of custodial violence and death, it is the police who have to implement these orders and carry out these investigations for the prosecution. As PUDR's findings on custodial deaths over the years have shown, many custodial death cases where FIRs are lodged do not proceed further due to the pressure of the police, the vulnerability of victims' families and/or eyewitnesses. [The case of the custodial death of fruit vendor Som Pal at Adarsh Nagar PS in late December 2016, for which public protests took place at the time and an FIR had been lodged (no. 555/16) against 5 policemen is a matter of this nature.] The additional power that the police in Adarsh Nagar PS seem to enjoy due to their proximity to and control over the Azadpur Mandi and its operation, the dependence of traders and wholesalers on the police must also be taken into account while investigating this incident.

All these factors contribute to the enormous power of the police on the ground, which leads to their effective impunity in incidents of custodial violence and death. This in turn perpetuates police custodial violence, despite it being illegal and unconstitutional. In order to be fair and bring justice, the Magisterial inquiry must consider all these factors, establish the truth and indict the guilty, and lead to their prosecution and punishment. We express our sincerest hope that Magisterial inquiry in the present case is taking all these aspects into consideration.

In the light of the above, PUDR raises some questions and puts forward its demands below:

1. Suraj Prakash's death took place in custody and an investigation into the cause of his death must be considered alongside any custodial violence that may have been meted out to Suraj Prakash in the premises of the Police Station. The denial of medical help despite doctors' directives also adds to the gravity of the

circumstances.

2. A fair and free Magisterial Inquiry and independent investigation must take place in this case with due collection of all evidence, from all sites – on the road and inside the police station, the hospital, and the transit. Due cognizance should be taken of the power of the police on the ground and in the area and the possibility of their influencing witnesses and preventing the truth from coming out.
3. The Magisterial Inquiry has to be time bound, apart from being fair – this is essential in order to serve justice and also in view of this kind of pervasive power of the police. [NHRC guidelines](#) have laid this down, though these are commonly flouted. There have been instances of Magisterial inquiries into cases of custodial death in Delhi running on for long. In another case of death in police custody in 2023, (death of Sheikh Sahadat on 23.7.23 at Netaji Subhash Place Police Station) in response to a petition by the wife of the deceased, the [Delhi High Court has ordered expeditious completion of Magisterial Inquiry](#). The Inquiry is still continuing over 9 months after the incident. This practically means that an FIR does not get registered and hence the trial cannot start. Thus in grave matters of this nature, the struggle for justice becomes even longer.
4. The post mortem report and videography should have been provided to Suraj's family by now (*See, [Santhosh v DC & Ors WP \(MD\) No. 12608 of 2020, Madras High Court](#)*) but has not. The list of evidence and witness statements should later be provided to the family.
5. An FIR must be lodged in this matter as mandated by the Supreme Court (*See, [Lalita Kumari vs State of UP, 2013](#)* (paragraph 120.1), and other [courts](#)). This has also been recommended by the [Law Commission](#) in its 152nd report (page 35). The Magisterial Inquiry (under S. 176 (1A) is envisaged as being in addition to regular police investigation (*see, [P.Rajakumari vs The Additional Director General 2014, para 28](#)*) in matters of custodial death. Obviously since the police of the same PS cannot investigate themselves, the FIR should be investigated by police from another PS, and kept under scrutiny, given the ties of brotherhood among the police.
6. Pending the completion of the Magisterial inquiry, accused policemen must be transferred from the PS to prevent them from influencing witnesses. (This is to ensure procedural fairness and need not be considered as proof of guilt, as police officials seem to hold in the present case.)
7. The key eyewitness must be given due protection from police pressure and his safety be ensured by the state.
8. Guilty policemen must be identified, prosecuted and punished.
9. The routine and normalised use of custodial violence and torture by the Delhi Police must be stopped immediately, and police impunity in instances of custodial violence and death brought to an end by regularly punishing the guilty, and giving due protection to citizens' democratic rights.