

FATAL CONFRONTATION: CUSTODIAL DEATH OF SURAJ PRAKASH, ADARSH NAGAR POLICE STATION, DELHI

A 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 Adarsh Nagar PS where Suraj died. According to the press reports Suraj Prakash's family believes that he was beaten by the police and died as a result of it. A magisterial inquiry has been initiated into the death.

A team from PUDR carried out a fact-finding investigation in the course of which it met the family and an eyewitness, and also spoke to 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 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 started asking Suraj's father if Suraj had any previous ailment, got 'fits' etc., which Mr. Pawar vehemently denied. The SHO then told him words to the effect that "What had to happen has happened" and that Suraj was no more. 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.

It was after this that the family learnt from Saket, Suraj's friend and key eyewitness, what had happened in the hours before his death.

The Incident

According to the account of the eyewitness, Saket, whom the PUDR team met, on 27 December, Suraj and he 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 at 3:00 am. Confronted with the brawl, Suraj stopped his car on the side of the road and stepped out, intending to dissolve 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 and continued to do so even as they were beating him, pointing out that the policemen were reeking of alcohol. His family hold that Suraj was quite strong but did not hit the policemen back because he respected the uniform, which is why he was also making the video. In retaliation, the policemen started beating Suraj further. They taunted him saying words to the effect that they would make him a 'hero', since he fancied himself as a 'cameraman'. Saket stated that 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 policemen who were already there. They were joined by the policemen from the ERV and together they inflicted violence upon Suraj. While initially there were about 2 policemen, there were 6 to 7 policemen present at the scene after reinforcements. 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 complained 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 find that Suraj was in a worsened condition. He learnt that Suraj was also denied water at the PS. Shortly thereafter, Suraj's condition deteriorated and he fainted. He was taken to the hospital again where he was declared 'brought dead'.

As mentioned earlier, Saket informed Suraj's father at this point, and the latter went to the PS and then to the hospital. He 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 Suraj as having been badly beaten and breathing laboriously possibly after being brought back from the hospital first time and then fainting.

The attempt of the SHO and some of the police personnel at the PS to shield the guilty policemen is evident. Apart from the SHO raising doubts about Suraj Prakash's health suggesting to Suraj's family when they had first come to the PS that he had a prior medical problem, the SHO later also tried to suggest to the family that Suraj may have been part of a gang and involved in a gang fight, a suggestion they angrily refuted! When Suraj's family confronted the police about denying him water, they refuted the allegation by showing the video footage of them throwing water on Suraj's face after he fainted - as evidence that they had 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. 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 is 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, the Judicial Magistrate from Rohini Court (Metropolitan Magistrate: Himanshu Sehloth) came to the PS later that morning (27 November) and began the mandatory magisterial inquiry under S. 176 (1A) into the incident. 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 has assured them 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 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 etc., on 29 November, and 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 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 etc. and other evidence have been submitted to the magistrate. His car is also in the custody of the police.

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. Since 'ties of brotherhood' often extend to the entire Delhi Police, this police investigation may not yield the truth. Even as family members and civil society groups like PUDR may put their faith in the magisterial inquiry it must be noted that the magistrate also relies on the police substantially, and the initial evidence is also collected by them and submitted to the magistrate. The Magisterial inquiry must be cognizant of the power

that the police have - when, as in the present case - the accused policemen officially remain in the same PS and continue to move about in the area, pressurise witnesses and the family, and influence the collection of evidence. This in turn would not allow the truth to be established if the police are guilty. Even more than other matters, 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 has also expressed his concerns for his safety in this regard (given his role as the key eyewitness) to the PUDR team. The magisterial inquiry must be cognizant of this and the state must make arrangements to protect witnesses and ensure that a fair and free investigation can take place, and the guilty be identified and punished.

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 show, many custodial death cases where FIRs are lodged [including 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] do not proceed further due to the pressure of the police, the vulnerability of victims' families and/or eyewitnesses. Another factor that emerged then, and is also reflected in this present case, is 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, their possible involvement in networks of corruption due to the dependence of traders and wholesalers on the police. This seems to have contributed (in both the Dec. 2016 case and the present incident of Nov. 2023) to the police from this PS acting with greater impunity and exercising greater power than those from other Delhi police stations.

It is this kind of power and arrogance, and the effective impunity that the police seem to have on the ground that perpetuates police custodial violence, despite it being illegal and unconstitutional.

In the light of the above findings, PUDR demands:

1. that as per the definition of [custody in law](#), court judgments and NHRC directives, the violent beating meted out by the police on Suraj resulting in his death be treated as brutal police custodial violence and his death as a custodial death. It cannot in any circumstances be considered necessary force meted out in the line of duty, and has to be considered alongside any custodial violence that may have been meted out to Suraj Prakash in the premises of the PS as well as the denial of medical help despite doctors' directives.
2. that fair and free investigation takes place in this case with due collection of all evidence, from all sites – on the road and inside the police station.
3. that the accused policemen be transferred from the Adarsh Nagar PS pending magisterial inquiry to prevent them from influencing witnesses.
4. that the key eyewitness be given due protection from the police and his safety be ensured by the state.
5. that the guilty policemen be identified, prosecuted and punished.
6. the routine and normalised use of custodial violence and torture by the Delhi Police 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 citizen's democratic rights.