

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.333 of 2020**

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Sumit Kumar, Son of Shri Shankar Jha, Resident of Village - Jagdishpur, P.O.-  
Aadharpur, P.S.- Muffasil Thana Samastipur, District - Samastipur,  
Authorized representative of M/s Annapurna Enterprises, a partnership firm  
having its office at 428A, Brahmipuri, Panjaya Gali No.- 4, Meerut (Uttar  
Pradesh).

... .. Petitioner/s

Versus

1. The State of Bihar, through the Director General of Police, Bihar at Patna  
Bihar
2. The District Magistrate, Saran at Chapra
3. The Director General of Police, Patna
4. The Superintendent of Police, Saran at Chapra
5. The Station Head Officer (S.H.O.), Parsa Police Station, District - Saran

... .. Respondent/s

=====  
**Appearance :**

For the Petitioner/s : Mr. Sanchay Srivastava, Advocate.

For the Respondent/s : Mr. Pawan Kumar, AC to AG.

=====  
**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE S. KUMAR**

**C.A.V. JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**



**Date: 22- 12-2020**

Torture, either mental or physical, represents the worst violations of individual human personality, an outright and premeditated attack on human dignity. It has no place in the governance of the State and its legitimate use of force. In any democracy, the right to live with dignity and self-worth, cannot be violently defiled within the ambit of Rule of Law and good governance.

2. Truck drivers in our country are amongst the most vulnerable sections of our society. The backbone of the national economy is dependent upon the untiring and ever driving efforts and labour of the poor, mostly illiterate and the vulnerable. In the absence of the hard work and toil of truck drivers, economic activity throughout the country is bound to come to a standstill.

3. Truck drivers lack proper education; proper healthcare; face daily hardships; have strained and unstable personal relationships; and most importantly are most susceptible to be at odds with the law and the functionaries of the State. These individuals are under the constant, endless pressure to make ends meet and ensure the survival of their families. It is these vulnerabilities that make them prone to



derelictions of the “dark side of human civilization.”

4. The Hon’ble Apex Court, in **D.K. Basu v. State of West Bengal, AIR 1997 SC 610**, has observed that “**12. In all custodial crimes what is of real concern is not only infliction of body pain but the mental agony which a person undergoes within the four walls of police station or lock-up.** Whether it is physical assault or rape in police custody, the extent of trauma, a person experiences is beyond the purview of law.” (emphasis supplied)

5. Truck drivers are faced with a great deal of high stress and pressure as part of their job. The introduction of the additional hassle and trauma, perpetuated by the authorities, through the use of hostility and torture is akin to grave human injustice. Such practices are a clear violation of the human rights guaranteed to every citizen of the world. With the failure of the State to protect its citizens, it becomes the responsibility and duty of the Judiciary to intervene in aid of these most downtrodden and helpless individuals.

6. All these issues arise for consideration in the present petition.

7. According to the petitioner, since 29<sup>th</sup> April, 2020, the Police officials of Parsa Police Station, District-



Saran illegally detained his vehicle bearing Registration No.HR-55P-5954 along with its driver, namely, Jitendra Kumar @ Sanjay Kumar (referred to as the detenue), and consequently, sought- (a) release of the vehicle; (b) release of the driver (detenue); (c) adequate compensation for such illegal detention.

8. This Court issued a notice on 3<sup>rd</sup> June 2020 and based on response filed and submissions made, on 4<sup>th</sup> June 2020, passed the following order:-

**"04.06.2020** Through a WhatsApp message Shri Prabhu Narayan Sharma, learned Assistant counsel to learned Advocate General, has forwarded the report prepared by the police officer of Parsa Police Station, in the District of Saran. According to the Police, the driver of the vehicle bearing registration No.HR-55P-5954, namely, Jitendra Kumar @ Sanjay Kumar, was driving the vehicle in a rash and negligent manner and after hurting a pedestrian, he fled away from the spot with the vehicle. The said vehicle intercepted by the police officials of Dariyapur Police Station District- Saran, who in turn handed over the Driver and the Vehicle to the Police Officials of Parsa Police Station, District-Saran. According to the report, the driver of the vehicle was not detained. The report also reveals that now an F.I.R. dated 3.6.2020



stands registered at the Parsa Police Station under Sections 279, 337 and 338 of the Indian Penal Code.

During the course of hearing, Shri Prabhu Narayan Sharma, learned Assistant Counsel to learned Advocate General, under instructions from the officer(s) of concerned police station, states that the driver of the vehicle, namely, Jitendra Kumar @ Sanjay Kumar, was never put under confinement nor was he ever in the custody of the Police. Of his own will and volition, he was present in the vehicle which was parked near the police station.

The whole narration of facts, to us, *ex facie* appears to be a concocted story, apart from being contradictory.

Why is it that the Police did not immediately register an F.I.R. when the vehicle driven by the detinue was intercepted by the police officials of Dariapur Police Station. After all the interception of the vehicle was based on prior information of the driver allegedly fleeing away from the spot, after causing hurt to a passerby; Why is it that the vehicle was not impounded; equally why is it that no action was taken promptly against the officials.

We find that it is only when the instant petition was filed on 15.5.2020, through an e-



mail, that the Police registered the case.

We are not satisfied with the explanation furnished in the report and to us it appears that both the vehicle and the driver were under illegal detention of the police official(s), be it that of police station of Dariyapur or Parsa Police Station of District Saran.

As such, we direct the Director General of Police, Bihar, Patna to forthwith have the matter examined and ensure that appropriate action is taken against the erring official (s).

Let the Director General of Police, Bihar, Patna file his personal affidavit positively within next two working days.

In so far as the custody of the driver is concerned, we direct the Police to immediately take appropriate action in accordance with law, which they are otherwise duty bound to do so within 24 hours, particularly when custody of the said person was handed over to the Police Officials of Parsa Police Station, District Saran.

We only hope and expect that the Director General of Police shall be forthright in instituting an enquiry and taking action for dereliction of duty by the concerned police official(s), who instantly did not register the FIR and illegally detained the driver and the vehicle.



List on 9<sup>th</sup> June, 2020."

(Emphasis supplied)

9. It is only under constant monitoring that the Director-General of Police, Bihar, Patna filed his affidavit dated 08.06.2020, *among other things*, admitting that:-

"2. That it is humbly stated and submitted that on 29.04.2020, the driver of the vehicle bearing registration no.HR-55P-5954 namely Jitendra Kumar @ Sanjay Kumar was driving the vehicle (Milk Van) as a result of which after hurting a pedestrian (Mannan Miyan @ Karina), he fled away from the spot with the vehicle under the jurisdiction of Parsa Police Station. The said vehicle was intercepted by the Police Official of the Dariyapur Police Station who in turn handed over the driver and the vehicle to the Police Official of Parsa Police Station.

3. That it is humbly stated and submitted that the police authorities sent the injured person to PHC, Parsa and lastly, he was referred to PMCH, Patna for better treatment. The injured person (Mannan Miyan @ Karina) could not be traced and found in PMCH, Patna, hence the statement of injured person could not be recorded and an FIR could not be registered immediately by the police official of Parsa Police Station.

6. That it is humbly stated and submitted



that the DIG of Police, Saran Range, Chapra submitted his report to Police Headquarters, Bihar, Patna vide Letter No.149 dated 05.06.2020. In his report he found the following irregularities by the SHO, Parsa Police Station:-

a. No FIR registered within time.

b. The statement of injured not recorded up till now.

c. No vehicle inspection has been done up till now.

d. without any rhyme and reason, the vehicle and the driver was detained illegally.

All the above irregularities shows the suspicious conduct and dereliction of duty by the SHO, Parsa Police Station. Hence, the DIG of Police, Saran Range, Chapra immediately suspended the SHO, Parsa PS and directed the Superintendent of Police, Saran for initiation of Departmental enquiry (proceeding) vide Memo No.-1527 dated 05.06.2020."

(Emphasis supplied)

10. Significantly, in the communication dated 5<sup>th</sup> June 2020 (Annexure-B annexed along with the said affidavit), it stands categorically admitted that for more than two days, the Police kept the detinue in the police lock-up, whereafter, the compound of the police station.

11. At this juncture, the FIR is registered; detinue



released on bail by the Court; and the vehicle released.

12. However, despite orders passed by this Court, the motor vehicle inspection report, *prima facie*, indicating the occurrence of the alleged accident has not been filed.

13. We elaborate on the facts hereinunder.

14. It is the case of the petitioner that on 29.04.2020, during transportation of milk from one place to another, a milk tanker vehicle was seized in the jurisdiction of Parsa Police Station (Bihar). The tanker was taken to a nearby dairy for milk to be extracted and thereafter detained at the police station where the detinue was detained in extra-judicial custody. All this done without lodging of any First Information Report and/or following the appropriate procedures of recording the detention of the individual or impounding the vehicle, rendering the seizure unlawful and detention illegal.

15. Even till 15.05.2020, the date of filing of this writ petition, the detinue was never presented before the learned District Magistrate having competent jurisdiction. In substantiation of their claims, the petitioner brought to the notice of the Court, the GPS Device Report from the GPS tracker fitted in the milk tanker, corroborating the vehicle taken to the Hajipur



Dairy for extraction of milk, whereafter to the Parsa Police Station.

16. However, opposing this, incessantly police officials continued to maintain that the milk tanker and the detinue, were apprehended only account of an accident injuring the pedestrian. It is their case that the detinue fled from the spot of the accident and later on the vehicle intercepted by the officials of another Police Station i.e. Dariapur Police Station (Bihar) and handed over to the officials of Parsa Police Station (Bihar). The FIR was not filed promptly as the officers-in-charge could not track down the injured person. Further, the driver (detinue) of the vehicle was never detained nor was he ever in custody of the Police.

17. Undisputedly the vehicle along with the detinue were apprehended on 29.04.2020 and taken to the police station. Further that no FIR was filed at the Police Station which was done on 03.06.2020, only after this Court issued notice. This improper conduct of the SHO, is also acknowledged in the investigation of the Director-General of Police, who put him under suspension, pending departmental proceedings. Significantly, the D. G. P. has confirmed and verified on affidavit confirming the irregularities and non-compliance of the procedure, for (i) no FIR was registered within the stipulated



time; (ii) statement of the person injured in the alleged accident not recorded; (iii) inspection of the vehicle was not got done; (iv) and that the driver (the detenu) along with the vehicle, illegally detained.

### **Illegal Detention and Breach of Fundamental Rights**

18. The facts of the instant case indicate a grim state of affairs where the police officials have acted in contravention and violation of the procedure established by law. The vehicle and detenu were detained and kept in police custody for more than 35 days without either filing of FIR or following any other procedure of arrest prescribed in law, ensuring constitutional protections to all persons. Even if the version of the Police of the detenu being in the vehicle of his own volition is to be believed, then also the documents annexed along with the affidavit filed by the DGP do record that at least for two days, he was kept in the police lock up. A further version of he being in the compound of the Police station is wholly unpalatable, hence unacceptable.

19. In numerous cases, the Hon'ble Apex Court has reiterated that detaining a person directly affects their fundamental right of life and personal liberty. The procedure established by law must be followed under all circumstances. The



version of the Police, of apprehending the accused on account of an alleged accident, falls short of compliance of procedure established by law. Therefore any detention made by the Police in this case, is completely illegal, unlawful, in contravention of the constitutional and statutory provision and direct violation of detinue's fundamental rights. This follows from the constitutional protections guaranteed to every person under Articles 21 and 22 of the Constitution.

**Procedure of Arrest required to be followed**

20. The procedure to be followed on arrest of a person, is prescribed under the provisions of the Code of Criminal Procedure 1973.

21. Chapter V thereof, provides as to how and under what circumstances, a person can be arrested. Section 41 enables the police officer to arrest a person without warrant; Section 41A empowers a police officer to issue notice directing any person to appear before him; Sections 41B and 41D provide for safeguards to person arrested by the Police; Section 50 entitles the person arrested for supply of grounds of arrest; Section 50A obligates the arresting officer to provide information of arrest of the person to a close relative, friends etc. and also make entry thereof, in a



book kept in the police station; Section 56 obligates the arresting officer to produce the person so arrested before the Magistrate having jurisdiction in the case, which in any case cannot exceed for more than 24 hours in terms of Section 56; Section 157 obligates the Police to submit a report to a Magistrate empowered to take cognizance of an offence allegedly taken within its jurisdiction.

22. Here only, we may take note of the provisions of the Indian Penal Code. As per Section 166, whoever, being a public servant, knowingly disobeys any direction of the law as to how he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

23. The detenu alleges illegally detained, whereas the Police, states that he was moving freely, sitting in the vehicle parked outside the police compound. Noticeably, only in the affidavit of Director General of Police, the truth stood revealed, and the other version contradicted. The accused was illegally detained and the vehicle not legally impounded, but detained and not allowed to be plied. The narration of the facts by the State



authorities, as recorded in our orders reproduced supra, remains contradictory and appears to be a concocted story. They fail to answer essential questions leaving holes in their story - (i) why did the Police not register the FIR immediately when the vehicle driven by the detenu was intercepted by the Dariapur police, especially when the interception was made on account of communication of the alleged accident and fleeing away of the driver? (ii) Why was the vehicle not impounded? (iii) why was the drive not produced before the Court?; and (iv) why was no action promptly taken against the officials?

24. Though repetitively, it stands reiterated that neither full particulars of the injured nor the treatment given in the Hospital where supposedly the injured took treatment stands disclosed.

25. Also, there is no statement of a person witnessing the occurrence of the accident. Then how did the Police get to know of such facts? No investigation in that regard ever took place or placed on record. The Police had no suspicion, as mandatorily required of initiating action under Section 41 Cr.P.C. of the detenu having committed any non-cognizable offence. There was neither any complaint nor any credible information warranting detention without the order of any Magistrate.



26. Further, the detinue was not produced before the Magistrate within 24 hours, as required under Section 56 of the Cr. P.C. Also, information of arrest was not supplied to a friend, relative or close person or entry made in the book, as required under Section 56A Cr. P.C., which is sacrosanct. The accused was not informed of the ground of arrest, as required under Section 50 Cr.P.C., thus depriving him of his right seeking bail. Police did not serve notice under Section 41A Cr. P.C., either upon the owner of the vehicle or the person driving at the time of occurrence of the alleged accident. Thus, there is an infraction of not only the said provision but also Section 41B Cr. P.C. which requires the memo of arrest to be prepared furnishing correct and complete information, as available, and witnessed by any independent person. Significantly, the valuable right of the accused of seeking legal advice envisaged under Section 41D Cr. P.C. stood infringed. Non-submission of any report to the Magistrate, as provided under Section 157 Cr.P.C only fortifies the version of the detinue. Thus, all this has rendered the police officer responsible for detention, liable for prosecution under Section 166 IPC.

27. In **D.K. Basu v. State of West Bengal (1997) 1 SCC 416**, Hon'ble Apex Court summarized that fundamental



rights occupy a place of pride in the Indian Constitution. **Article 21** provides that "no person shall be deprived of his life or personal liberty except according to procedure established by law". Personal liberty is a sacred and cherished right under the Constitution. The expression "life or personal liberty" must include the right to live with human dignity, necessarily including a guarantee against torture and assault by the State or its functionaries. **Article 22** guarantees protection against arrest and detention in certain cases and declares that no person arrested shall be detained in custody without information of the grounds of such arrest. Also shall not be denied the right to consult and defend through a legal practitioner of choice. Clause **(2) of Article 22** mandates the person arrested and detained in custody, necessarily to be produced before the nearest Magistrate , and that too within 24 hours of arrest, excluding the time taken necessary for the journey from the place of arrest to the Court of the Magistrate. Article 20(3) of the Constitution lays down that a person accused of an offence shall not be compelled to be a witness against himself. These are some of the constitutional safeguards provided to a person with a view to protect his personal liberty against any unjustified assault by the State.

28. Further, the Court laid down the guidelines on



the procedure to be followed by every police officer arresting any person. These were made in light of statutory and constitutional requirements, to establish a useful and effective to structure appropriate machinery for contemporaneous recording and notification of all cases of arrest and detention to bring in transparency and accountability.

"35. We, therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures:

(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 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 be either 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 counter signed 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 center 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 concerned State or Union Territory. 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.

**36.** Failure to comply with the requirements hereinabove mentioned shall apart from rendering the concerned official 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.

**38.** The requirements, referred to above flow from Articles 21 and 22(1) of the Constitution and need to be strictly followed. These would apply with equal force to the other governmental agencies also to which a reference has been made earlier."

(Emphasis supplied)

29. In the case of **Joginder Kumar v. State of UP (1994) 4 SCC 260**, with the release of the writ petitioner from the illegal custody of the Police after five days, when the Police sought dismissal of Habeas Corpus petition on the ground of illegal detention no longer surviving, the Hon'ble Apex Court observed that:

"...20.... Denying a person of his liberty is a serious matter. The recommendations of the Police Commission merely reflect the constitutional concomitants of the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the Officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a Police Officer issues notice to person to attend the Station House and not to leave Station without permission would do."



(Emphasis supplied)

30. The strict requirement of the procedure to be followed in cases of arrest and detention has been upheld in multiple cases by the Hon'ble Apex Court, including **Arnesh Kumar v. State of Bihar (2014) 8 SCC 273**; **Rini Johar v. State of Madhya Pradesh (2016) 11 SCC 703**.

31. Section 154 of the Code of Criminal Procedure, 1973 mandates the officer in charge to reduce in writing, every information relating to the commission of a cognizable offence, given to him/her.

32. In the case of **Lalita Kumari vs. Govt. of Uttar Pradesh (2014) 2 SCC 1**, a Constitution Bench of the Hon'ble Apex Court discussed whether a police officer is bound to register a First Information Report (FIR) upon receiving any information relating to the commission of a cognizable offence under Section 154 of the Code of Criminal Procedure, 1973. The Court made the following observations:

"**120.** In view of the aforesaid discussion, we hold:

- (i) Registration of FIR is mandatory under section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
- (ii) If the information received does not disclose a cognizable offence but indicates the necessity for an



inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

(iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

(iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

(v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence

...(viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."

(Emphasis supplied)

[Also **Ramdev Food Products (P) Ltd. v. State of Gujarat- (2015) 6 SCC 439; Hema Mishra v. State of U.P.- (2014) 4 SCC 453; Lalita Kumari (supra)**]

33. Here in the instant case, Police allegedly was aware of the occurrence of an offence under the provision of IPC. So why no FIR was registered remains unexplained.



34. Further, in **Gangadhar alias Gangaram vs. State of Madhya Pradesh 2020 SCC OnLine SC 623**, the Apex Court held that the right to a fair investigation, which is a facet of a fair trial guaranteed to every accused under Article 21 of the Constitution.

35. This right also stands infringed.

36. In **Monika Kumar v. State of U.P.- (2017) 16 SCC 169**, the Apex Court has highlighted the issue of Atrocities committed by the Police, which in fact appears to be a matter of routine.

37. In our considered view, simply taking up action of initiation of disciplinary proceedings is not enough. The entire Police Force needs to be sensitized of the constitutional and statutory rights of the detinue/accused, also from the angle of human rights.

**Detention of Vehicle without FIR or Seizure Memo, Power and procedure for detaining vehicles**

38. The procedure required to be followed for the detention and seizure of vehicles is adequately prescribed under the statutory provisions of the Motor Vehicles Act, 1988 along with the Code of Criminal Procedure. **Section 102** of Cr.P.C empowers the police officer to seize any property which may be



alleged or suspected to be stolen or which is found under the circumstances creating suspicion of the commission of any offense. Section 207 of the Motor Vehicle Act empowers any police officer authorized on behalf of the State Government to seize or detain a vehicle if it is found to be in contravention of section 3, 4, 39, or sub-section (1) of section 66 of the Act. The procedure described under **Section 457** of the Code of Criminal Procedure, 1973, is relevant. Clearly, seizure of the property made by the police officer ought to be reported to the Magistrate, who has the discretion to pass an order disposing off the property to the person entitled to its possession.

39. The Hon'ble Supreme Court, in the case of **Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283**, held that the power of disposing of the property seized by police officers should be exercised expeditiously and judiciously, for serving the purpose:- (i) Owner of the article would not suffer because of its remaining unused or by its misappropriation; (ii) The Court or the Police would not be required to keep the article in safe custody; (iii) If the proper panchanama before handing over possession of an article is prepared, it can be used in evidence instead of its production before the Court, in a trial. If necessary, evidence could also be recorded describing the nature



of the property in detail; and (iv) This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.

40. Further, the Hon'ble Apex Court in the case of **General Insurance Council &Ors v. State of A.P &Ors., (2010) 6 SCC 768**, highlighted the duty of the Court in doing so by observing as under:

"7.....

17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by a third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then the insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If the insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared."



41. The Court further identified the misgivings faced by owners of vehicles that are detained, whether legally or illegally, at police stations and stated that:

"14. It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from the above, it is also a matter of common knowledge that several valuable and costly parts of the said vehicles are either stolen or are cannibalized so that the vehicles become unworthy of being driven on road. To avoid all this, apart from the aforesaid directions issued hereinabove, we direct that all the State Governments/ Union Territories/Director Generals of Police shall ensure macro implementation of the statutory provisions and further direct that the activities of each and every police stations, especially with regard to disposal of the seized vehicles be taken care of by the Inspector General of Police of the concerned Division/Commissioner of Police of the concerned cities/Superintendent of Police of the concerned District."

42. Given the above position of law on the disposal of property seized by the Police, this Court believes that the law is clear on the procedure to be followed and the stipulated mandate set out by the Hon'ble Apex Court. The same was not followed at all.



43. The vehicle seized, although without the registration of search memo or an F.I.R under Section 154 of the Code of Criminal Procedure, 1973, is liable to be disposed of as per the provision under section 451 and 457 of the Code. Owing to the same, by our order dated 20<sup>th</sup> July, 2020, the petitioner was granted liberty to file a petition for provisional release of the vehicle, i.e. Milk Tanker. This was on account of subsequent of registration of the FIR.

**Right to Compensation under Articles 32 & 226 of the Constitution of India for Violation of Fundamental Rights**

44. The instant case is one that is fit for hefty compensation to be levied on the State for violation of the fundamental right to life and liberty by way of illegal detention of Jitendra Kumar @ Sanjay Kumar, the detenu. This right would remain independent of the right of the petitioner as also the detenu to claim other damages as private law remedy.

45. In the case of **Rudul Sah v. State of Bihar (1983) 4 SCC 141**, Hon'ble the Supreme Court upheld the grant of compensation for illegal detention under a petition of Habeas Corpus, "taking into consideration the grave harm done". The petitioner was illegally detained for over fourteen years despite his acquittal in a full- dressed trial. In a Habeas Corpus petition, Court



directed his release from illegal detention and passed orders for payment of compensation by observing that:

"10. ...In these circumstances, the refusal of this Court to pass an order of compensation in favour of the petitioner will be doing mere lip-service to his fundamental right to liberty which the State Government has so grossly violated. Article 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders to release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violaters in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilization 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. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers."

46. This right of compensation for illegal detention was followed in multiple cases including **Bhim Singh v. State of J&K (1985) 4 SCC 676**, **Peoples' Union for Democratic Rights v. Police Commissioner (1989) 4 SCC 730**.

47. It stood further crystalized by the Hon'ble Apex Court in the case of **Nilabati Behara v. State of Orissa (1993) 2**



**SCC 746**, where petitioner's son was kept in police custody which was illegal, and his dead body found near the railway tracks. Apparently, he died as a result of the multiple injuries inflicted to him while in police custody. The Court upheld the grant of compensation to the mother of the deceased for contravention of his fundamental right under Article 21. It upheld that the enforcement of the constitutional right and grant of redress embraces award of compensation as part of the legal consequences of its contravention. Also that principle on which the liability of the State arises in such cases for payment of compensation and the distinction between this liability and the liability in private law for payment of compensation in an action on tort 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 penalizing 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 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 like 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty. It is independent of the rights available to the aggrieved party to claim compensation under the private law in action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law. Whereas in private law/tort law, a defence of sovereign immunity may be maintainable, the State had no such defence and was fully liable for payment of compensation for contravention of fundamental rights of the petitioner.



48. In **T.C. Pathak v. State of U.P. (1995) 6 SCC 357**, the facts, similar to the instant case, as the detainee was kept in police custody for days without any registered FIR,/ground for arrest etc against him. The father filed the writ of Habeas Corpus for production of his son, forcibly taken away from the shop. The Apex Court held that even though the detainee was released and the prayer in the Habeas Corpus petition did not survive. Nevertheless, on account of denial of the right of personal liberty guaranteed under Article 21 of illegal confinement, the detainee deserved to be suitably compensated for denial of his constitutional right. The principles stood reiterated in **Arvinder Singh Bagga v. State of UP (1995) SCC (Cri) 1156**.

49. In the case of **Dhananjay Sharma v. State of Haryana (1995) 3 SCC 757**, the Hon'ble Apex Court directed initiation of contempt proceedings and perjury cases against the police officials who were, by way of affidavits to the Court, acting to cover up their acts of illegal detention of the petitioners. The respondent police officials who provided false affidavits denying the police detention were put on charged and sentenced for perjury and contempt of Court.

50. On the issue of quantification of compensation, the principle stands established by the Hon'ble Apex Court in case



of **D.K. Basu (supra)**. The Court held that the award of compensation under public law came to assure citizens that they live under a system where their rights and interests ought to be protected and preserved. Such claims are based on the strict liability of the State, and it cannot claim the defence of sovereign immunity. It held that the assessment of compensation was one that was compensatory to the citizen and not on a punitive justification. However, no straight jacket formula could be provided for the calculation of compensation for:-

**"54. ... 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 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."**

(emphasis supplied)

51. The purpose of compensation as a medium for restoring the confidence of the citizen in the system where their rights and interests are preserved, as the underlying principle for grant of compensation for violation of fundamental rights has been reiterated time and again by the Hon'ble Supreme Court, including in the case of **Nilabati Behra (supra)** and the more



recent case of **Dr. Ashwani Kumar v. Union of India, Miscellaneous Application No.2560 of 2018 in Writ Petition (Civil) No.738 of 2016** decided by the Hon'ble Supreme Court on 5<sup>th</sup> September, 2019.

52. In the case of **Mehmood Nayyar Azam v. State of Chattisgarh (2012) 8 SCC 1**, the petitioner was a medical officer who was taken to the police station with the sole aim of humiliating him, where he was made to be pictured, holding a placard with self-humiliating words. Seeing these extra-judicial and unlawful acts of the police officers in inflicting mental torture on the petitioner, in light of the general agony and helplessness which a person feels in custody, the Court allowed compensation of Rs. 5 lakh to the petitioner.

53. We place reliance on the holding of the Hon'ble Apex Court in the case of **S. Nambi Narayanan v. Siby Mathews and Ors., (2018) 10 SCC 804**, in rejecting the arguments that compensation could not be granted for violation of Article 21 as no custodial violence was committed against the petitioner, holding that custodial torture was not limited to physical violence inflicted on the person. Rather the mere act of unlawfully detaining the individual and violating their fundamental right to life was sufficient to inflict harassment, mental torture and



humiliation on a person. The Court also placed great reliance on the concept of mental agony caused to a person when he is confined within the four walls of the police station or lock-up. The petitioner therein was a scientist at the Indian Space Research Organization (ISRO) who was arrested under unsubstantiated claims of espionage against him and detained in police custody without following the procedure of law. Accordingly, the Court taking stock of the wrongful imprisonment; malicious prosecution; the humiliation faced by the appellant, ordered the State of Kerala to pay a sum of Rs. 50 lakhs towards compensation.

54. Also in **Mehmood Nayyar Azam (supra)**, relates to custodial humiliation and mental torture, the Apex Court awarded Rs.5 Lakhs as compensation, to be paid by the State.

55. Thus the law expounded by judicial pronouncements can be summarized and categorized, laying the following principles.

## **I- LIBERTY**

(i) Article 21 – Right to life and personal liberty are of paramount nature. Necessity to drive towards stronger foothold for liberties so as to ensure sustenance of higher democratic



values. It's the primary responsibility of the State to protect the fundamental rights and freedoms of all individuals irrespective of race, caste, class or religion. [**Tehseen S. Poonawala v. Union of India (2018) 9 SCC 501**]

(ii) Inseparable relationship between right to life and personal liberty, under Article 19 and the reflections of dignity, is in guarantee against arbitrariness under Article 14. To live is to live with dignity. Dignity permeates the core of rights guaranteed to the individual by Part III. It is the integral core of fundamental rights. [**K.S. Puttaswamy (Privacy-9J.) v. Union of India (2017) 10 SCC 1**]

(iii) Right under Article 21 cannot be kept in abeyance for convicts, undertrials and prisoners. Allowing Police to violate fundamental rights of such persons would amount to anarchy and lawlessness, which cannot be permitted in a civilized society.

(iv) Inhuman treatment to a person in custody withers away the essence of life as enshrined under Article 21. [**Mehmood Nayyar Azam (supra)**]

## **II. BALANCE BETWEEN NATIONAL SECURITY AND INDIVIDUAL LIBERTY.**

(i) Article 21 is of great importance because it enshrines the fundamental right to individual liberty, but at the



same time a balance has to be struck between the right to individual liberty and the interest of society. No right can be absolute, and reasonable restrictions can be placed on them.

**[Rajesh Ranjan Yadav v. CBI, (2007) 1 SCC 70]**

### **III. ARREST**

(i) Article 21 and 22(1) are violated as a result of indiscriminate and arrests/ illegal detention. **[Joginder Kumar (supra)]**

(ii) Violation of fundamental rights under Article 21 and 22(2) - Police officers who are custodians of law and order should have greatest respect for the personal liberty of citizens and should not become depredators of civil liberties. Their duty is to protect and not to abduct. **[Bhim Singh (supra)]**

### **IV- DUTY AND POWER TO REGISTER FIR**

(i) While prompt registration of FIR is mandatory, checks and balances on power of Police are equally important. Power of arrest or of investigation is not mechanical. It requires application of mind in the manner provided. Existence of power and its exercise are different. Delicate balance has to be



maintained between the interest of society and liberty of an individual. [**Ramdev Food Products (P) Ltd.(supra)**]

(ii) Mandatory registration of FIR on receipt of information disclosing a cognizable offence is the general rule. This must be followed strictly and complied with. However, where information does not disclose a cognizable offence a preliminary inquiry may be conducted to ascertain whether cognizable offence is disclosed or not. [**Lalita Kumari (supra)**]

(iii) Preliminary inquiry is a must prior to FIR, to avoid false implication of innocent under Atrocities Act. Preliminary inquiry must be made by Deputy Superintendent of Police (DSP) prior to registration of an FIR, Even if case registered after preliminary inquiry, arrest is not mandatory. [**Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454**]

#### **V- TORTURE CUSTODIAL DETENTION AND/OR DEATH**

(i) Torture involves not only physical suffering but also mental agony. It is violation of human dignity and destructive of human personality under Articles 21, 22 and 32 – Custodial Violence – Torture/rape, death in police custody/lock-up infringes



Article 21 as well as basic human rights. State terrorism is no answer to terrorism. [ **D.K. Basu (supra)**]

## **VI- HABEAS CORPUS JURISDICTION/ RIGHT TO GRANT COMPENSATION**

(i) Where petitioner apprehends arrest, Court can issue a certiorari to quash the impugned detention order or a mandamus prohibiting the arrest. [**Deepak Bajaj v. State of Maharashtra, (2008) 16 SCC 14**]

(ii) Constitution confers power on the Supreme Court to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by Part III. [**Rudul Shah (supra)**]

(iii) The refusal of this Court to pass an order of compensation in favour of the petitioner will be doing mere lip-service to his fundamental right to liberty which the State Government has so grossly violated. Article 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders of release from illegal detention [**Rudul Shah (supra)**]



(iv) The Court has inherent power to quash criminal proceedings amounting to abuse of process. In the interest of protecting fundamental rights under Articles 14 and 21, Court can also issue directions to regulate power of arrest. Balance must be maintained between social need to check crime and need to protect human right of liberty of an innocent person against arbitrary and malafide arrests. [**Subhash Kashinath Mahajan (supra)**]

#### **VII- BALANCE TO BE MAINTAINED WHILE GRANTING RELIEF OF BAIL TO THE ACCUSED-**

(i) The law of arrest is one of balancing individual rights, liberties and privileges, on the one hand, and individual duties, obligations and responsibilities on the other; of weighing and balancing the rights, liberties and privileges of the single individual and those of individuals collectively; of simply deciding what is wanted and where to put the weight and the emphasis; of deciding which comes first — the criminal or society, the law violator or the law abider. [**Joginder Kumar (supra)**]

(ii) Balanced approach must be employed while enforcing these rights to ensure criminals do not go scot-free. [**D.K. Basu (supra)**]



(iii) In considering a petition for grant of bail, necessarily, if public interest requires detention of citizen in custody for purposes of investigation could be considered and rejected as otherwise there could be hurdles in the investigation even resulting in tampering of evidence. [**K.K. Jerath v. Union Territory, Chandigarh, (1998) 4 SCC 80**]

(iv) While deciding whether to grant bail to an accused or not, the Court must also take into consideration other facts and circumstances, such as the interest of the society. [**Rajesh Ranjan Yadav(supra)**]

(v) When the provision of Section 438 Cr. P.C. is specifically omitted in the State of Uttar Pradesh, Court as back door entry via Article 226 wherever the High Court finds that in a given case if the protection against pre-arrest is not given, it would amount to gross miscarriage of justice. [**Hema Mishra (supra)**]

#### **VIII- RIGHT OF ACCUSED**

(i) An arrested person has a right to know of his entitlement of supply of information of detention to friend, relative or other person told that he has been arrested and where he is being detained. [**Joginder Kumar (supra)**]



(ii) Period of detention under section 151 Cr. P.C. cannot exceed 24 hours and in absence of anything else, after expiry of that period the detainee must be released. [**Ahmed Noormohmed Bhatti v. State of Gujarat (2005) 3 SCC 647**]

(iii) An entry shall be required to be made in the diary as to who was informed of the arrest. These protections from power must be held to flow from Articles 21 and 22(1) and enforced strictly. [**Joginder Kumar (supra)**]

(iv) Fair and Independent investigation is crucial to preservation of rule of law and is the ultimate analysis of liberty itself. [**Romila Thapar v. Union of India, (2018) 10 SCC 753**]

#### **IX- REPUTATION**

(v) Since arrest and detention can cause irreparable damage to a person's reputation a police officer must be guided and act according to principles laid down by the Courts when deciding whether to make an arrest or not. [**Lal Kamendra Pratap Singh v. State of U.P., (2009) 4 SCC 437**]

(vi) Violation of guidelines under statute; and **D.K. Basu; Joginder Kumar case** – seriously compromises the dignity of the accused. [**Rini Johar (supra)**]



(vii) Law provides for a procedure for arrest, investigation and trial which needs to be scrupulously followed and no one can be permitted to law into his own hands and annihilate what majesty of law protects.[**Tehseen S. Poonawala (supra)**]

#### **X- SENSITIZING POLICE**

(i) Police need to be trained and sensitized all of rights of citizens and maintaining law and order in a civilized manner. [**Monica Kumar v. State of U.P., (2017) 16 SCC 169**]

#### **XI- PROCEEDINGS AGAINST POLICE OFFICIAL**

(i) Mandatory Requirements [as stated in this case] to be followed by police personnel while arresting or detaining a person are in addition to constitutional and statutory safeguards. Non-compliance with the same would make official liable for departmental action [**D.K. Basu (supra)**]

(ii) Arrest made without fulfilling the conditions as set forth under **Joginder Kumar (supra)** and **D.K. Basu (supra)**, may expose the arresting officer to proceedings for violation of Articles 21 and 22 of the Constitution. [**Rajender Singh Pathania v. State (NCT of Delhi), (2011) 13 SCC 329**]



(iii) Action shall be taken against erring officials who do not register FIRs per law, on receipt of information disclosing cognizable offence. [**Lalita Kumari (supra)**]

(iv) It is open for the State to proceed against erring officials for violating Article 21. [**Rini Johar (supra)**]

56. Summarizing the principles based on which the Court ought to base its decision of granting compensation in cases of violation of fundamental right under Article 21, we see that: a) Compensation is compensatory in nature; b) The purpose is to assure the victim that the system protects their rights and interests; c) The exact amount of compensation has to be assessed on the basis of facts and circumstances and gravity of each case; d) The mere absence of custodial violence would not preclude the victim from the grant of compensation. The agony and mental harassment caused in police custody are sufficient to constitute a severe violation of fundamental rights; e) In the assessment of the gravity of harm done, the Court would take into account the unlawful imprisonment, mental torture and humiliation caused to the victim.

57. The petitioner also established illegal detention of his milk tanker in the custody of the Parsa Police Station for more than 30 days. For this, he sought directions in the form of



mandamus to the concerned authorities. Also claimed compensation for loss of his business during this period. We agree the manner in which the police officers apprehended the milk tanker/vehicle to be in complete violation of the procedure for seizure established by law. However, at this point, under this writ petition, we refrain from taking any decision giving liberty to seek remedy before the appropriate forum, under private law.

### **ROLE AND PROBLEMS OF TRUCK DRIVERS**

58. The drivers of commercial vehicles, especially the Truck Drivers, in India occupy a very unique and vital place in the immense Transportation sector which serves as the backbone of the Indian Economy. The road transport sector contributes almost 85-90% of passenger traffic 60-65% of freight traffic. Drivers of commercial vehicles are uniquely tasked with the supply of nearly all goods required for daily sustenance across the whole nation. Their life is defined by great hardship and sacrifice. They are under constant pressure to complete long journeys in short durations; operate under conditions of extreme lack of sleep; lack proper sanitation along highways and roads; have improper access to food and water, and have to spend most of their time away from their families. Along with these gruelling adversities, they are at constant odds with the police and State authorities,



while trying to protect themselves from the continuous threat of highway robberies.

59. Plying of commercial vehicles in the State of Bihar is essential for connecting the eastern strip of the nation with the centre. It serves as a unique link to the coastal State of West Bengal, the North-Eastern states of Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura, and also a trade route to the nation of Nepal. Road transport is representative of more low cost, flexible, more accessible mode of transportation in comparison with the railways. It also serves as healthy competition to the State-owned Indian Railways for the transport of goods and passengers. The drivers plying these vehicles are therefore invaluable to the prosperity and development both of the State and the Nation.

60. The truck drivers face constant problems with the authorities during their course of travel. They have to cross several checkpoints while crossing states/UTs. The authorities can be particularly discriminatory at these checkpoints against the truck drivers. The lack of literacy among the truck drivers and significant disparity across state laws can be a huge barrier in their compelling journey. The drivers at the ground level are required to deal with the authorities, and lack of proper knowledge gives the



latter enough leverage to harass and haggle these former while stopping the movement of trucks altogether. This unnecessary practise causes a tremendous amount of time lost to the National Economy as well as the Economy of the State.

61. There is an immediate need to improve the conditions of truck drivers in the State of Bihar as well as across the country. It is apparent that they are invaluable to the movement of the Economy and face widespread discrimination and constant hardships. The State ought to consider constituting a body to address these issues. There is an immediate need to address the human rights violations faced by them.

62. Some of the issues faced by truck drivers can be highlighted as follows: a) Lack of guidelines and regulations regarding the working hours and payment who suffer from unstable and poor personal relationships due to the high-pressure job requirements; b) Lack of proper facilities of hygiene, rest and proper food; c) pressures of the job, leads to various physical and mental health issues including obesity, diabetes and heart diseases; d) Lack of maintenance of highways and regulation of overloading of trucks which is one of the major causes of accidents on roads across the country; e) Lack of literacy and knowledge of various laws across the different States, should



serve as an opportunity for State authorities to inform and educate truck drivers instead of trying to harass and take advantage of them; f) Lack of technology literacy even after the internet boom in India. This has left most truck drivers struggling to compete with more organized and institutional businesses; g) Lack of a complaint redressal mechanism for truck drivers; h) The discrimination and abuse faced by truck drivers is a prevalent issue not unique to the State of Bihar.

#### **Directions of the Court**

63. In light of the discussions made above, we direct that:

- a. The State of Bihar shall pay compensation to the detenué, namely, Mr. Jitendra Kumar @ Sanjay Kumar, an amount of Rs.5,00,000/- (Rupees Five lac) for the violation of his fundamental right under Article 21 of the Constitution of India. This amount shall positively be paid within a period of six weeks from today.
- b. This compensation would be without prejudice to and independent of any remedy for damages in private law that the petitioner and/or detenué may wish to avail.
- c. Appropriate disciplinary action/disciplinary proceedings already stands initiated against the erring police officers, which proceedings be expedited and positively concluded within a period of three months from today. Action taken



report be filed in the Registry on or before 30<sup>th</sup> of April, 2021.

- d. The Director General of Police, Government of Bihar shall ensure initiation of criminal proceedings against the erring police officers and file compliance report on his personal affidavit within a period of four weeks from today.
- e. The Director General of Police, Government of Bihar shall ensure that proceedings under the other Laws, including Bihar police Manual, 1978 applicable in the State of Bihar are immediately initiated against the erring officials.
- f. The Director General of Police, Government of Bihar shall ensure that appropriate action for sensitizing the entire police force, especially, the constabulary in Bihar, with special focus on safeguarding the fundamental rights of citizens is taken.
- g. The Director General of Police, Government of Bihar shall ensure proper and effective functioning of a Complaint Redressal Mechanism, easily accessible to the general public, especially illiterate and the marginalized people of the State.
- h. The appropriate authorities take the eye opening facts of this case, of the instances of abuse of process in the State of Bihar, as an opportunity to ensure better supervision over the Police Stations, preventing reoccurrence of such cases of constitutional violations.
- i. The Director General of Police, Government of Bihar shall get a report prepared, with respect to the number and the nature of the complaints filed against the police officers/officials, and take remedial measures preventing repeated occurrence of such misconduct.



- j. The State of Bihar shall consider forming a body to represent the views of the truck drivers and provide them with a complaint redressal mechanism.
- k. The State of Bihar shall make efforts towards improving the conditions of the truck drivers. They must consider issues about their healthcare; access to food; working hours; payment of wages; literacy and access to technology.
- l. Engage the Civil Society in generally building goodwill of the entire police force amongst the residents of Bihar.

64. The writ petition stands disposed of in the above terms.

65. Interlocutory application, if any, shall stand disposed of.

66. Let a copy of this order be sent to the Chief Secretary, Government of Bihar, Patna for the needful.

**(Sanjay Karol, CJ)**

**S. Kumar, J**

I agree.

sujit/-

**( S. Kumar, J)**

AFR/NAFR	AFR
CAV DATE	18.09.2020
Uploading Date	22.12.2020
Transmission Date	

