2025 INSC 711

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP (Crl.) No (s). 3450 of 2025)

HANSURA BAI & ANR. ....APPELLANT(S)

VERSUS

THE STATE OF MADHYA PRADESH & ANR. ....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.

2. Leave granted.

3. The appellants herein have approached this Court, through this appeal by special leave, assailing the judgment dated 20th December, 2024, passed by

the High Court of Madhya Pradesh at Gwalior[1] in Writ Petition No. 33416 of 2024, whereby the learned Single Judge turned down the prayer made by the appellants for transferring the investigation into the custodial death of Deva Pardhi to some other investigating agency; and to direct the release of sole eye-witness to the custodial torture, namely, Gangaram Pardhi on bail.

4. Facts as emerging from the record reveal that one Bhagwan Singh, resident of Village Bhidra, lodged an FIR No. 232 of 2024 at Myana Police Station against unknown persons for theft and house trespass by night punishable under Sections 380 and 457 of the Indian Penal Code, 1860[2]. As per the complainant, substantial articles of silver and gold jewellery and cash were stolen from the safe of his

[1] Hereinafter, being referred to as the 'High Court'.
[2] For short, 'IPC'.

house on 2nd June, 2024. The FIR of the said incident came to be registered on 3rd June, 2024.

5. The appellants are mother and aunt respectively of Deva Pardhi, whose marriage was scheduled to be solemnised on 14th July, 2024 with one Nikita Pardhi. It is the case of the appellants that while the *Haldi* ritual was going on, about 30-40 police personnel entered the wedding venue in 5-6 police cars and two motorcycles. The time was around 04:00 P.M. to 04:30 P.M., when 10 police officials entered into Deva Pardhi's house and immediately overpowered and handcuffed him along with his uncle, Gangaram Pardhi, the husband of appellant No. 2, and started assaulting both of them. The remaining members of the police team surrounded the house. When the family members, including women and children, tried to resist/oppose the high-handed acts of the errant police officials, they too were manhandled and beaten

up. Deva Pardhi and Gangaram Pardhi were dragged by the police officials and were forcibly taken away in the police van to the Jhagar Chowki. The family members were told that they would be taken to Myana Police Station for inquiry in the aforesaid theft case. The police officials further assured that both Deva Pardhi and Gangaram Pardhi would be safely brought back by the next morning. It is alleged that the police officials took Deva Pardhi and Gangaram Pardhi to the old Thana instead of the new Thana premises which has CCTV facilities. Women folk from both the households visited the police station, but they were not allowed to meet and speak to Deva Pardhi and Gangaram Pardhi.

6. Both Deva Pardhi and Gangaram Pardhi were threatened and were subjected to intense third-degree treatment including beating by ropes, putting chilly powder, petrol, salt and hot water on their

bodies. Deva Pardhi was strung up by ropes and was hung upside down from the roof. His face was covered with a black cloth which was tied to his ankle using a string. He was repeatedly doused with water in an attempt to suffocate him. By putting Deva Pardhi in fear of death, the police officials pressurized him to confess to the commission of theft as reported by Bhagwan Singh. Gangaram Pardhi tried to intervene saying that they did not have any idea about the so-called theft. Deva Pardhi was tortured in this manner for about three hours whereafter the rope was cut. Resultantly, Deva Pardhi fell from the roof onto the floor. Still, the police officials did not relent and continued to torture him. Hot water was thrown and salt was put on the wounds of Deva Pardhi who stopped responding to the torture stimuli upon which, the police officers pinched him. As no response was seen, the police officers took Deva

Pardhi to another room. Later, an ambulance was called, and the police officials took Deva Pardhi to the hospital where he was declared dead.

7. Gangaram Pardhi was produced before the Magistrate on 15th July, 2023, after being illegally detained for more than 24 hours by the police officials. He was remanded to judicial custody and was sent to Guna district jail.

8. To the utter dismay and shock of the family members of Gangaram Pardhi, they found that Shri Rajendra Singh Chauhan, one of the police officials who was a part of the team which had forcibly taken away and detained Deva Pardhi and Gangaram Pardhi, lodged an FIR No. 247 of 2024 under Sections 191(1), 191(2), 190, 109(1), 132, 121(1), 296, 221 and

324(4) of the Bharatiya Nyaya Sanhita, 2023[3], against the whole family of Gangaram Pardhi.

9. Post-mortem was conducted on the body of Deva Pardhi and the Doctors conducting the autopsy reported multiple contusions, abrasions, etc., over the body of the deceased. The cause of death was reserved for receiving the histopathological and bio-chemical analysis reports. This Court is apprised that subsequently an opinion was given by the Doctors that the cause of death of Deva Pardhi was vasovagal shock leading to heart attack.

10. Magisterial Enquiry was conducted into the death of Deva Pardhi and on conclusion thereof, FIR No. 341 of 2024 came to be registered at the Police Station Myana for the offence punishable under Section 105 (culpable homicide not amounting to

[3] For short, 'BNS'.

murder), Section 115(2) (voluntarily causing hurt) and Section 3(5) (joint criminal liability) of the BNS against the Town Inspector of Myana Police Station along with seven to eight other police personnel.

11. Based on the statements of the witnesses examined during the investigation, offences punishable under Section 120 (voluntarily causing hurt to extort a confession) of the BNS and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 were added to the case.

12. The investigation assigned to the local police in the FIR pertaining to the custodial death of Deva Pardhi is still stuck up without a single accused being arrested. In the meantime, the sole witness to the grave incident of custodial death namely, Gangaram Pardhi, who had been remanded to the judicial

custody, has been implicated in criminal cases, *viz*, FIR Nos. 247 of 2024, P.S. Dharnawada; 489 of 2023, P.S. Dharnawada; 434 of 2023, P.S. Jaora; and 87 of 2023, P.S. Chippabarod, etc.

13. The appellants herein, being the relatives of Gangaram Pardhi, preferred Writ Petition No. 33416 of 2024 before the High Court of Madhya Pradesh at Gwalior seeking transfer of investigation of FIR No. 341 of 2024 to some other agency, along with an Interlocutory Application for grant of bail to Gangaram Pardhi.

14. The High Court, *vide* order dated 20th December, 2024, passed in I.A. No. 12328, denied the prayer for bail made on behalf of Gangaram Pardhi. However, at the same time, the High Court accepted the allegations of threats, coercion and duress being faced by Gangaram Pardhi at the hands of police and

prison officials who were having access to the District Jail, Guna, and directed that Gangaram Pardhi be shifted to Central Jail, Gwalior.

15. Being aggrieved, the appellants have preferred the instant appeal by special leave.

16. Ms. Payoshi Roy, learned counsel representing the appellants, vehemently and fervently urged that the entire endeavour of local police officials is to pressurize and coerce Gangaram Pardhi to give evidence in favour of the police officials who indulged in the brutal custodial murder of Deva Pardhi.

17. She further contended that Gangaram Pardhi is being entangled in multiple criminal cases, one after the other, so as to prolong his custody period and to subdue him into exonerating the police officials by changing his version.

18. She thus submitted that it is a fit case warranting transfer of investigation into the custodial

death of Deva Pardhi to the CBI and to further direct grant of bail to Gangaram Pardhi, who has been entangled in the multiple false cases after the incident dated 13th/14th July, 2024.

19. *Per contra*, learned counsel for the respondents have opposed the submissions advanced by learned counsel for the appellants.

20. Learned Additional Solicitor General Ms. Aishwarya Bhati representing the State of Madhya Pradesh, submitted that two of the involved police officials have been shifted to the police lines. However, she did not dispute that other than transfer of the errant police officials, no realistic or firm measures whatsoever have been taken to bring the offenders to book. Nevertheless, she urged that the State police is fairly investigating the matter pertaining to custodial death of Deva Pardhi and all

the errant police officials will be proceeded against as per law after investigation is complete.

21. It was further submitted that the apprehensions being expressed regarding the threat perception being felt by Gangaram Pardhi, have been alleviated pursuant to the High Court order shifting him from Guna Jail to Gwalior Central Jail and thus, now there is no cause of concern in this regard.

22. It was submitted that Gangaram Pardhi is a hardened criminal who is wanted in multiple cases involving grave offences and hence, the plea of innocence and false implication raised by the appellants is devoid of any merit. Ms. Bhati urged that Gangaram Pardhi can avail the remedy of seeking bail from the Courts concerned and therefore, there is no justification warranting exercise of the extraordinary jurisdiction of this Court under

Article 136 of the Constitution of India so as to grant relief in this case.

23. We have given our thoughtful consideration to the submissions advanced at the bar and perused the material available on record.

24. The grievance of the writ petitioners in the writ petition was that the local police is adjudging its own cause, which is causing grave prejudice to the appellants.

25. It is settled a position of law that credibility of investigating agency should be impeachable. Further, the power to transfer investigations to a certain investigating agency must be sparingly used in the interest of justice and to maintain public trust on the institution. If the investigating agency is privy to the dispute, it may raise doubts on the credibility of investigation and thus, make out a ground to transfer the investigation. In this regard, gainful

reference may be made to the decision of this Court in ***Narmada Bai v. State of Gujarat***,[4] wherein it was held as follows:

> **"61.** In ***Mohd. Anis* v. *Union of India*** [1994 Supp (1) SCC 145 : 1994 SCC (Cri) 251] it has been observed by this Court that:
>
> "*5.* … Fair and impartial investigation by an independent agency, not involved in the controversy, is the demand of public interest. **If the investigation is by an agency which is allegedly privy to the dispute, the credibility of the investigation will be doubted and that will be contrary to the public interest as well as the interest of justice**." (SCC p. 148, para 5)
>
> "*2.* … Doubts were expressed regarding the fairness of the investigation as it was feared that as the local police was alleged to be involved in the encounters, the investigation by an officer of the U.P. Cadre may not be impartial." (SCC p. 147, para 2)
>
> **62.** In another decision of this Court in ***R.S. Sodhi* v. *State of U.P.*** [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248] the following conclusion is relevant : (SCC pp. 144-45, para 2)
>
> "*2.* … We have perused the events that have taken place since the incidents but we are refraining from entering upon the details thereof lest it may prejudice any party but we think that since the accusations are directed against the local police personnel it would be desirable to entrust the investigation to an independent agency like the Central Bureau of Investigation so that all concerned including the relatives of the deceased may feel assured that an

[4] (2011) 5 SCC 79.

> independent agency is looking into the matter and that would lend the final outcome of the investigation credibility. **However faithfully the local police may carry out the investigation, the same will lack credibility since the allegations are against them. It is only with that in mind that we having thought it both advisable and desirable as well as in the interest of justice to entrust the investigation to the Central Bureau of Investigation forthwith and we do hope that it would complete the investigation at an early date so that those involved in the occurrences, one way or the other, may be brought to book**. We direct accordingly."
>
> **63.** In both these decisions, this Court refrained from expressing any opinion on the allegations made by either side but thought it wise to have the incident investigated by an independent agency like CBI so that it may bear credibility. **This Court felt that no matter how faithfully and honestly the local police may carry out the investigation, the same will lack credibility as allegations were directed against them. This Court, therefore, thought it both desirable and advisable and in the interest of justice to entrust the investigation to CBI so that it may complete the investigation at an early date**. It was clearly stated that in so ordering, no reflection either on the local police or the State Government was intended. This Court merely acted in public interest.**"**
>
> **(Emphasis supplied)**

26. It is not in dispute that for the incident involving the death of Deva Pardhi in police custody, an FIR No. 341 of 2024 has been registered, but till date, not

one of the police official responsible for the death of a young man in custody has been arrested.

27. It is also not disputed that Gangaram Pardhi, the sole witness to the custodial death of Deva Pardhi, expressed serious threat perception at the hands of police and prison officials. The High Court accepted the genuineness of the threat perception and directed the transfer of Gangaram Pardhi from Guna Jail to the Central Jail, Gwalior.

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

conducted autopsy of the dead body of Deva Pardhi, seem to have been pressurised/influenced.

29. We are constrained to observe that despite taking note of the large number of the injuries on the body of Deva Pardhi, the victim of custodial torture, the members of the Medical Board which conducted post-mortem on his body, failed to express any opinion regarding the cause of his death. This omission seems to be deliberate rather unintentional and appears to be a direct result of influence being exercised by the local police officials. The involvement of the police officials in the custodial death of Deva Pardhi is clearly borne out from the statement of the sole eye-witness Gangaram Pardhi and stands further corroborated during the magisterial inquiry. The victims' family tried to lodge the FIR immediately after the incident, but the local police officials prevented them from doing so. It is only after the

magisterial inquiry was conducted that the FIR came to be registered wherein the offence of culpable homicide amounting to murder was omitted. Nearly eight months have passed since the FIR was registered but till date, not a single accused has been arrested.

30. These circumstances give rise to a clear inference that the investigation by the local police is not being carried out in a fair and transparent manner and there is an imminent possibility of the prosecution being subjugated by the accused if the investigation is left in the hands of the State police, who are apparently shielding their own fellow policemen owing to the camaraderie.

31. Therefore, we deem it fit and essential to direct that the investigation of FIR No. 341 of 2024 shall

forthwith be transferred to the Central Bureau of Investigation[5].

32. The jurisdictional Superintendent of Police, CBI shall forthwith direct registration of the RC and will ensure fair, transparent and expeditious investigation into the custodial death of Deva Pardhi. The police officials found responsible for the custodial death shall be arrested forthwith and not later than a period of one month from today. The investigation shall be concluded within a period of 90 days from the date of the arrest of the accused.

33. So far as the aspect of grant of bail to Gangaram Pardhi is concerned, we may observe that the underlying facts narrated *supra* clearly indicate that a deliberate attempt is being made to somehow or the other, implicate Gangaram Pardhi in multiple cases, one after the other, so as to keep him behind bars

[5] For short, "CBI".

indefinitely, and break his spirit and the spirit of his family members thereby ensuring that the said person being the star witness of the custodial death of Deva Pardhi is not only demoralized but is also prevented from deposing against the errant police officials. The apprehension of threat to life expressed on behalf of Gangaram Pardhi has been duly accepted by the High Court who directed shifting him to the Central Jail, Gwalior.

34. In this background, we hereby give liberty to Gangaram Pardhi to directly move the High Court of Madhya Pradesh at Gwalior for grant of bail in all the cases in which he has been implicated after the incident dated 13th/14th July, 2024. The High Court, while considering the application/s for grant of bail, shall keep in mind the observations made above and is requested to decide the prayer for bail, if any, expeditiously made on behalf of Gangaram Pardhi.

35. Gangaram Pardhi is the sole eye-witness to the torture and custodial death of Deva Pardhi and hence, it is the duty of the State to provide him protection on the anvil of the witness protection scheme.

36. We, therefore, direct that the responsibility to provide safety and security to Gangaram Pardhi, either in prison or after being released on bail, shall be that of the Principal Secretary (Home), Government of Madhya Pradesh and the Director General of Police, Madhya Pradesh.

37. The appeal is disposed of in these terms accordingly.

38. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
MAY 15, 2025.