



# ANOTHER 'NATURAL' DEATH IN TIHAR

Custodial Death of Jishan and its aftermath

**Peoples Union for Democratic Rights (PUDR)**

**May 2022**

On 15 February 2022, 19 year old Jishan, died in judicial custody of Delhi's Tihar Jail. He had been brought to Deen Dayal Upadhyay Hospital by the jail authorities and died there. Jishan was an undertrial, who had been arrested for a petty theft in November 2021. He had been a healthy young man and had not complained of any illness when family members met him while he was in jail. When they received his body after the post mortem investigation, they discovered that it had multiple bruises and fractures. There was a public protest by people of the neighbourhood, and they demanded that Jishan's death be investigated and the reason why a healthy young man had died so suddenly and mysteriously, after suffering such violence, be clearly established. The incident received some initial media coverage mainly in [one media portal](#), and further coverage following the investigation and press conference by a [civil society group](#) shortly after the time of occurrence. Even as the matter died down in public memory thereafter, and was not raised again by the mainstream media or authorities, Jishan's family and neighbours remained hopeful that the truth about his death and his many untreated injuries would emerge, and justice would be done.

They are still waiting.

PUDR carried out an investigation of this incident and its aftermath and spoke to the family and neighbours of the victim, the present lawyer handling the case and the police and jail authorities, and consulted the official documents available with the family and lawyer. Following is the report of its investigation into this case of custodial death of Jishan in Tihar Jail on 15 February 2022 and its aftermath.

## **The arrest**

Jishan had been picked up in the early hours of 19 November 2021, around 3.30 am, by the Preet Vihar police for stealing packets of cigarettes from a local shop selling water bottles, cigarettes, *namkeens* etc. in East Guru Angad Nagar. The shop-owner received a call from the police at about 3.30 am that his shop had been broken into. When he reached the shop Constable Ombir Singh present there showed him two broken locks found there and also

showed him the youth, Jishan who, according to the Constable, had been attempting to escape after stealing a number of cigarette packets in a big plastic bag and had been apprehended by the police. The policeman then took Jishan, along with the broken locks and also an iron rod (that Jishan allegedly had with him), and the packets of cigarettes to the PS, and the shop-owner accompanied them and officially filed the complaint and the FIR (no. 455 of 2022) was lodged. Jishan was charged under Sections 457/380 of the IPC for trespass and theft. Thereafter he was presented in court and sent to Tihar Jail.

## **Background**

Jishan or Aanu, as he was fondly called in the neighbourhood lived in one of the *jhuggis* (officially T Huts) near Radhu Palace, in Laxmi Nagar area of east Delhi. The family hails from Bijnor in Uttar Pradesh, and his father Mohd. Yakub (45 years) came to Delhi 35 years ago. He is a cycle-rickshaw puller who earns and his wife and Jishan's mother, Shanno (42 years) is a domestic worker in the neighbouring better off localities. Jishan and his five siblings were born in Delhi – one of his two older brothers is disabled, while the other works at a local barbers' shop. One of his sisters has got recently married, and the other younger siblings do not go to school. Jishan himself had studied upto class 7 and since then, taken up different jobs – helping out at a motor mechanic's shop, or carpenters, or helping his uncle at a junk dealing shop. The small *jhuggi* cluster where he lived is comprised of densely packed cramped shanties, with apparently around 700 people living in the small area of roughly 200 square metres. The access to Jishan's house is through a small 5 feet wide *gali* with an open drain running in it. The house is a tiny, narrow structure painted blue inside, a space of 10 feet by 6 feet in which 7 persons used to stay. Jishan was a well-liked young man in the neighbourhood, one who did not have bad habits, was helpful and financially supported his family.

The family learnt of Jishan's arrest from the police on 19 November 2021 who summoned them to the PS. The local neighbourhood youth contested the police claim about his theft and held that he had only taken one or two cigarette packets. The police summoned Jishan's family to the PS after his arrest. They allegedly demanded a sum of Rs. 15000 to let him go. However this was a sum they could not afford to pay as, apart from their usual lack of resources, they had got additionally burdened by debt recently in the process of arranging their daughter's

(Jishan's sister's) marriage. They had hoped that since it was not a grave offence Jishan would soon get out of jail.

In Tihar, Jishan was incarcerated in Central Jail 5. His family went to meet him (*mulaqaat*) at least three times between his arrest and death and give him money twice for things like soap and canteen purchases. They met him last on 27 January, 2022. They believe he was healthy and never reported any health issues or troubles when they met, nor did he appear at all unwell. Jishan was granted bail by the court on 25 January, 2022 (after being rejected twice before) against a bail surety of Rs. 20000 which his family was unable to pay. Two virtual hearings were reportedly held in January and early February and Jishan was represented by a lawyer from the Legal Aid Services. Jishan had, reportedly, been given unconditional bail (without the surety, on personal bond) and was to be released on 14 February.

On the morning of 15 February 2022, Jishan's mother got a call from a relative, who had been contacted by the police, saying that Jishan was unwell and they should reach the Deen Dayal Upadhyay (DDU) Hospital. When she along with other family members reached the Hospital, they were informed by the police (ASI Niranjan Lal of Hari Nagar PS) that Jishan was dead. They were told that he had died due to chest pain, low platelet count and brain haemorrhage. They found his body in the morgue in an unrecognisable state and covered with blood stains and injuries. They were not allowed to take the body then as the post mortem investigation was pending.

## **Aftermath**

Jishan's body was handed over to the family on 17 February, 2022, three days after the death, following the post mortem conducted by a Board of Doctors of the DDU Hospital. After the post mortem they took his body back to their own locality for final rituals. When they began to clean his body for ablution before burial (*ghusal*) they found injury marks and extensive bruising around eyes, neck, shoulder, calves and knees. They also believe that his bones – ribs, shoulder, knee – were broken. They took photographs and videos of these injuries which the PUDR team has seen and which are available in the public domain. Grieving and angry, Jishan's family and their agitated neighbours decided to protest and blocked the road around their *jhuggis*, demanding an inquiry into Jishan's death, believing that he was killed brutally inside the jail. They managed to get a written assurance from

the SHO, Preet Vihar PS Inspector Hiralal that they would be given the post mortem report, videographic proof etc. as soon as these were completed. Their demand for an independent investigation into his death, to also unravel the causes for the unexplained injuries on his body has not been met.

## **NHRC**

Particularly following the complaint of the civil rights group that investigated the incident shortly after its occurrence, the NHRC took cognizance of this case of Jishan's death and registered a case (no. 1444/30/9/2022-AD) to look into the case of custodial death as well as the issue of compensation. The jail authorities and police at Hari Nagar PS stated that they have submitted all relevant information and records pertaining to Jishan to the NHRC. They claimed that they routinely report all cases of deaths in Tihar Jail to the NHRC as these are technically 'custodial'.

Meanwhile the inquest was also initiated routinely as in all matters of deaths in Tihar jail under the judicial magistrate – in this case at the court of a Metropolitan Magistrate in Tis Hazari. The post mortem was carried out at the behest of the same magistrate by a board of doctors of the Deen Dayal Upadhyay Hospital on 17 February as mentioned previously.

## **Post-Mortem report**

Drawing upon the inquest papers the post mortem report gives a brief report and a timeline of Jishan's medical problems. It states that on 10 February he reported to the Central Jail 5 dispensary with complaints of 'chest pain' and 'swelling.' On 12 February Jishan was referred to DDU Hospital for a 'complaint of fall' at ward no. 3 of central jail. He was given treatment and was instructed to follow up in 7 days in OPD. On 14 February 2022, he was again referred to DDU Hospital for complaints of gum bleeding, pain and swelling at forehead. Jishan was diagnosed with severe thrombocytopenia (very low platelet count of 6000) and was 'managed accordingly'. The report states that Jishan expired on 15 February 2022 at 1.10AM, during the 'course of treatment at DDU Hospital'.

Apart from this, the external examination in the post mortem lists **7 external injuries**:

1. Reddish bruise of size 2cm x 1cm on the right side of forehead

2. Reddish Bruise of 3cm x 1 cm on left side of the forehead
3. Bluish black bruise of size 10cm x 5cm on the right eye
4. Reddish bruise of size 5cm x 3cm on the right shoulder
5. Reddish bruise of size 10cm x 3cm on the tip of the right shoulder
6. Brownish Scabbed abrasion of size 0.5 x 0.3cm on the right lower lip
7. Reddish Bruise of size 4cm x 3cm on the left side of chest.

The photos taken of the body by Jishan's family members included these and some other injuries including those on legs, which are not recorded in the PM report. These injuries that are recorded include severe bruises, several on the face apart from other parts of the body. Strangely, the PM report draws no inference after recording all these injuries.

Other than blood in the right and left frontal region of the brain and intra cerebral haemorrhage, no other internal injuries have been listed. No Apparent Distress (NAD) is reported for Ribs and there is no mention of the injuries on his legs. Finally the post mortem report states the cause of death is intra cerebral haemorrhage which it says occurs in cases of low platelet count. It essentially considers Jishan's death as one due to natural causes.

### **Jail authorities**

The version of the jail authorities, three months after the incident, reflects this story substantially. Having submitted the necessary reports to the NHRC, they primarily attributed Jishan's death to his 'drug habit', and 'low platelet count' and their consequences. According to them Jishan had admitted at the time of his arrest in November 2021, that he had been addicted to smack for the past 2 or 3 years. In their version, while in jail, Jishan had complained of headache, chest-ache, ache in the eyes etc. as well as gum pain (prior to his death). These were, they believed, common among drug addicts, and also the result of very 'low platelet count'.

The jail authorities also revealed that when Jishan had been taken to DDU hospital on 12 February with several injuries, he had recorded two different reasons as cause of his injuries when asked about the same at two different places in the course of the hospital visit— at one place he said that he had had a fall, and in another he had recorded that **he had been beaten up inside the jail**. While the jail narrative presented this as a sign of Jishan's

inconsistency and lack of clarity it is important to note that it offers another explanation for his injuries. Even though it is unclear if he was beaten by jail officials or by other inmates, it draws attention to the negligence and culpability of jail authorities in whose custody Jishan was. This allegation of violence and beating up by Jishan was not investigated at the time by the jail authorities. The post mortem report merely notes that Jishan's injuries were the result of a fall, and ignores this other explanation and possibility.

## **Questions**

Some important questions arise from these accounts and from the post mortem report.

(1) Why has the possibility of Jishan being beaten up prior to his death inside jail not been examined further?

This is especially important given the extent and nature of his injuries, many of which have been recorded in the post mortem report and also since Jishan himself is believed to have stated so at least once.

(2) When Jishan went to DDU Hospital with injuries on 12 February, even if these were then recorded as the result of a 'fall', given that he died due to a fall, how could the inquest report and the post mortem report simply repeat that explanation? If Jishan was suffering from thrombocytopenia on 14 February how could it appear so abruptly and fatally, and platelets plummet so dangerously in the course of one day, leading to a crisis on 14 February itself? If he was unwell, why did the hospital send him back on 12 February given that at least some symptoms of the illness would have manifested themselves at that time too?

(3) Even if the cause of death imputed by the PMR is correct, how does it account for the number of grave external injuries listed in it, or rule out their role in aggravating and speeding up his death?

(4) If Jishan was diagnosed as suffering from thrombocytopenia at DDU hospital on 14 February 2022, and his platelet count was actually 6000 (as the inquest report and PMR indicate) this would have been an extremely grave emergency and require very dynamic treatment with blood and platelet transfusion etc. What was done to manage Jishan's situation and what are the details of the medical treatment he received?

(5) How could the police tell Jishan's family of 'low platelet count' as one of the reasons for his death when they first saw his body on 15 February, before the inquest or the post mortem examination? Is this an

explanation a ‘natural’ cause that has been deliberately put into circulation, to prevent investigation into the violence inflicted upon Jishan in jail?

This tendency to emphasize natural causes or prior disease or drug habit as cause of death that is evident in official and unofficial accounts by state authorities in this case has become amplified in the course of the three months since Jishan’s custodial death in Tihar jail. The fact that the family’s request for the details of Jishan’s medical condition, and treatment, of the months in jail, placed before judicial and executive authorities in March 2022 has not yet been granted, furthers this impression that there is a cover-up of brutal violence in prison and extreme negligence by prison authorities underway.

The Supreme Court in 2015 issued nine guidelines to reduce custodial torture and violence against prisoners. These included the directive to install CCTV cameras in prisons. The [court noted](#) in its verdict that “CCTV cameras will help go a long way in preventing violation of human rights of those incarcerated in jails. It will also help the authorities in maintaining proper discipline among the inmates and taking corrective measures wherever abuses are noticed.” It is unclear whether CCTVs were present in Jail 5 where Jishan was lodged or whether these records will be consulted before the NHRC and the magistrate finally pronounce their judgment. But this case, and the absence of any accountability of prison authorities, the lack of access of any independent agency to the prison, to monitor condition of prisoners or the functioning/ location and working of CCTVs or have access to these records shows that technological fixes (like CCTVs) by themselves cannot lead to a reduction of custodial violence/ violence in prison. As long as prison authorities rather than any independent agency remain in charge of setting these mechanisms up, the narrative (and the location and angle of CCTV cameras) as well as the sources of the NHRC’s information, will be in the control of the prison and state authorities. As is threatening to happen in the case of Jishan, violence in jail against undertrials and prisoners, especially the vast majority belonging to impoverished families, could continue unchecked, in view of such lack of official accountability. These connections – between the prison authorities, doctors examining the prisoner in the hospital connected with the jail, doctors conducting post mortem examination in the same hospital, the dependence of the judicial magistrate conducting the inquest on the same informants, the fact

that the NHRC often does not rely on any independent investigation – mean that even a death of a prisoner as a result of violence in jail (for which jail authorities are responsible) could be officially recorded as the result of ‘natural causes.’ The opacity of the prison means that this injustice and violation of prisoners’ rights could be rendered invisible. As PUDR has found in its investigation into incidents of custodial violence over several decades, the actual deaths of persons in police or jail custody occur due to medical reasons – for example brain haemorrhage or cardiac arrest – but the conditions preceding the medical death, that precipitate it, need to be examined fairly, transparently and independently to establish the responsibility of the custodial agency. In the case of the death of Jishan in judicial custody on 15 February 2022, this kind of fair and free investigation is urgently needed.

In the light of the above

### **PUDR demands**

- (1) The history of Jishan’s medical treatment while in judicial custody should be immediately provided to the family.
- (2) Independent and fair investigation be carried out into Jishan’s death and criminal prosecution of the guilty.
- (3) Immediate grant of compensation to Jishan’s family for his death in custody.