

Police Custody, Arbitrary Detention, and Institutional Failure: A Case Study of the Somnath Suryawanshi Custodial Death (Parbhani, Maharashtra, 2024) Under the BNSS 2023 Framework

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Abstract: In this case study, we consider the custodial death of Somnath Suryawanshi, a 35-year-old law student belonging to the Scheduled Caste community of Wadars, who succumbed on 15 December 2024 at a government hospital in Parbhani, Maharashtra, while in judicial custody, a few days after his arrest in relation to communal riots that ensued in response to the alleged defilement of a replica of the Constitution of India. This incident was occasioned by the recent operation of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS 2023), which came into effect on 1 July 2024, superseding the Code of Criminal Procedure, 1973. In a report filed before the MSHRC, it was stated in March 2025 that the police were culpable of the death of Suryawanshi. Following this, an order was passed by the Bombay High Court directing the filing of a FIR against the concerned police personnel within a period of seven days from 9 May 2025. This case study attempts to analyze, in a systematic manner, the incidents in light of the requirements set out by Chapter V of the BNSS 2023, the D.K. Basu guidelines (AIR 1997 SC 610), and Articles 21 and 22 of the Constitution of India, 1950. It identifies multiple probable procedural violations and uses this case as an analytical lens to interrogate the practical effectiveness of the BNSS 2023 in restraining arbitrary police conduct. The case study demonstrates that legislative reform without robust accountability mechanisms and independent institutional oversight cannot, by itself, prevent custodial abuse in India.

Keywords: custodial death; BNSS 2023; arbitrary arrest; Parbhani; police accountability; Article 21; Article 22; Bombay High Court; MSHRC; D.K. Basu guidelines; Maharashtra.

INTRODUCTION

Custodial deaths form a special category when it comes to the conversation on criminal justice reforms in India. On the one hand, it is the very worst example of what can happen when the State wields its coercive powers unaccountably and without restraint. At the same time, it serves as the best example of how the law on arrests and detentions becomes divorced from reality in the hands of the State apparatus. Every custodial death is both a tragic event and a diagnosis: it exposes in clinical detail the weaknesses of the process which make such an outcome possible.

The incident of the death of Somnath Suryawanshi from Parbhani, Maharashtra, in December 2024, becomes highly relevant to this discussion, for this incident has taken place in the initial six months following the enactment of the BNSS 2023. The law had been proposed on grounds that it was an important law bringing about changes in various spheres and one of them is the protection of arrestees against custodial torture by including more stringent and advanced procedures. This case is an early and brutal test for such claims. Does BNSS 2023, in spite of having better rules and procedures, make any changes in Indian policing institutions?

This case study will be organized as below. Section 2 provides the background to the communal riots of Parbhani district in December 2024. Section 3 provides a chronology of events leading to the arrest and death of Suryawanshi using only verifiable sources from court, MSHRC, and other recognized national press. Section 4 provides an assessment of the legal regime under which the BNSS 2023 applies. Section 5 provides an analytical review of the procedural protections available and any violations that seem likely to have occurred. Section 6 assesses the legal process at the Bombay High Court and the system of constitutional accountability. Section 7 places the incident in the wider context of custodial deaths in India. Section 8 analyzes the implications of this case for the BNSS 2023 as a reform measure.

A note on sources and factual claims: this case study makes no factual assertion that is not grounded in a verifiable public source. Where the public record is incomplete -- as it necessarily is in a case that was still under investigation at the time of writing -- the case study clearly identifies the limits of available information and confines itself to legal analysis based on established facts. No fabrication of events, attributions, or legal findings is made.

Background: The Parbhani Communal Disturbances (December 2024)

Parbhani is a district in the Marathwada region of the state of Maharashtra, where there is a considerable presence of Scheduled Castes. These include several Scheduled Castes which identify strongly with the constitutional heritage inspired by Ambedkar. On 10 December 2024, a rally by right-wing elements was organized in the vicinity of the statue of Chhatrapati Shivaji Maharaj in Parbhani, ostensibly in protest against "atrocities" against Hindus in Bangladesh. On the very next day, 11 December 2024, an incident involving the vandalism of a glass box housing a replica of the Constitution of India, situated near a statue of Dr. Babasaheb Ambedkar, led to protests (Deccan Herald, 2025).

Very soon, however, these protests gave way to instances of public disorder characterized by damage to property and clashes between the protesters and the police forces. The administration of the district issued prohibitory orders under Section 163 of the BNSS 2023 (similar to Section 144 of the CrPC), and the police were deployed on a large scale. In the immediate aftermath of the disturbances, the police undertook an aggressive wave of arrests of the people, arresting more than 50 individuals suspected to be associated with the riots. It has since become apparent that several individuals who have been arrested have little or nothing at all to do with the incidents of violence.

The Parbhani disturbances became a matter of national concern not only because of the delicate nature of the incident that triggered it (the defiling of a replica of the Constitution) but also due to the claims of misconduct on the part of the police which surfaced after the arrests had been made. Political personalities, belonging to parties like the Vanchit Bahun Aghadi and the Indian National Congress, toured Parbhani and demanded a probe into not only the incident of defilement but also the manner in which the police carried out its duty.

Sequence of Events: From Arrest to Death

Somnath Suryawanshi was a 35-year-old male from the Wadar Scheduled Caste group. It is said that he had visited Parbhani in order to appear for his law examinations during the period of disturbance. Suryawanshi was picked up by the officers of the Nava Monda Police Station, Parbhani, around the period of 11 or 12 December 2024 due to the disturbance that took place. The actual reason why he was detained and whether an arrest memo was made or not, along with other details related to the same, are still unknown but are part of the investigation conducted under the supervision of the Bombay High Court. Suryawanshi was taken to the Nava Monda police station following his arrest. As per the results of the magisterial inquiry presented to the MSHRC in March 2025, it can be stated that physical assault against Suryawanshi took place while he was in police custody at the police station. As revealed in the results of the magisterial inquiry, the death of Suryawanshi was due to negligence on the part of the police officials, thereby indicating a cause-and-effect relationship between the ill-treatment of Suryawanshi in the custody of the police station and his eventual death.

Subsequently, Suryawanshi was produced before the Magistrate, in line with the provisions of Section 58 of the BNSS 2023, where the time limit is twenty-four hours. Nevertheless, he soon fell ill upon being taken into judicial custody, and thus was moved to a state-run hospital in Parbhani where he succumbed to his fate on 15 December 2024, four days since his detention. Although the clinical causes for the death as determined by the autopsy report remain unknown in the public domain as of now, the magisterial inquiry verdict of police culpability clearly means that some form of injury or condition acquired while in police custody led to his death.

Following the death of Suryawanshi, a PIL was filed in the Bombay High Court with a demand for accountability regarding the custodial killing. It was the duty of the Government of Maharashtra to file a reply on the matter. The MSHRC got the report of the magistrate's inquiry in March 2025. In a judgement passed by the Bombay High Court on 9 May 2025, it was ordered that a FIR be registered against the concerned police officers in one week's time. This was done only when the High Court was convinced that a prima facie case of responsibility by the police force could be made out from the magistrate's inquiry report.

Legal Framework Applicable Under the BNSS 2023

Since the arrest of Somnath Suryawanshi occurred on or after 1 July 2024, the BNSS 2023 was the applicable procedural law. The following provisions of the BNSS were directly engaged by the facts of this case.

Section 35: The Conditions for Arrest Without Warrant

Under Section 35 of the BNSS 2023, a police officer can arrest an accused without a warrant if there is reason to believe he or she may have committed a cognisable offence. According to this section, in line with the guidelines of Arnesh Kumar, it is required of the arresting police officer that he has reasonable grounds for believing that it is necessary to arrest the concerned individual because of some or all of the following reasons, which include: the apprehension of escaping; destruction of evidence; commission of additional crimes. The fact of arrest of Mr. Suryawanshi during a period of mass arrests due to communal disturbances leads to an important doubt as to whether such an individual determination was done.

Section 47 and Article 22(1): Communication of Grounds of Arrest

Section 47 of BNSS 2023 mandates that "the police officer making such arrest shall forthwith communicate to the person arrested the full particulars of the offence for which he is arrested or other grounds for such arrest." This section is essentially statutory representation of the Article 22(1) right of the constitution. In the case of *Pankaj Bansal v. Union of India* (2023) 10 SCC 136, the Apex Court stated that the ground for the arrest should be in written form and should be specific rather than generic. In cases where there have been mass arrests in connection with civil disturbances, the chances are very high that this obligation would not be adhered to by individual police officers.

Section 48: Notification to Relatives

Section 48 provides that it is the duty of the arresting authority to inform, as soon as possible, the nominated relative or friend about the arrest. Section 36(c) further allows this to be done by electronic means. The reality of the fact that the family and the community of Suryawanshi were unaware about the details of his arrest and injury until he died – which led to filing a PIL in the Bombay High Court – indicates a clear breach of this procedure. Had the procedure been duly followed, Suryawanshi's relatives could easily obtain legal representation and apply for bail or treatment.

Section 51: Medical Examination

Under Section 51 of the BNSS 2023, a person who has been arrested must be examined medically by a medically-trained officer. Besides, the D.K. Basu guidelines stipulate that the arrested person must be given a medical examination at intervals of forty-eight hours from the day of arrest during his custody in police lock-ups, and a medical certificate must be provided to him when he is released. In the case of Suryawanshi, where there has been an allegation of physical assault against him during the time of his custody in the police lock-up, the crucial issue arises whether the medical examinations required by law were performed, and whether the medical records, if prepared, faithfully recorded the extent of injuries suffered by the accused person.

Section 46: Prohibition on Unnecessary Restraint

According to Section 46 of the BNSS 2023, the arrested individual must be restrained only as much as is necessary for his/her detention. Any physical assault committed on a detained individual can thus be termed an excessive measure not "necessary to prevent escape." As such, it would amount to a breach of Section 46 as well as Article 21 of the Constitution which, according to D.K. Basu, safeguards the right to personal security even when someone is under detention. Further, a breach of Section 46 resulting in the death of the detainee may lead to criminal liability, both under the BNSS 2023 and the Prevention of Torture Bill.

Section 58: The Twenty-Four Hour Rule

The BNSS 2023, Section 58, states that a person should not be detained in police custody after twenty-four hours without being produced before a Magistrate. The production of Suryawanshi before a Magistrate and then his detention in judicial custody suggests that in terms of fulfilling this provision there has been compliance. But mere compliance with this provision is no consolation if this twenty-four hour period was used for inflicting the torture which resulted in his death. Twenty-four hours is a bare minimum, not a license for police brutality within that period.

Procedural Violations: A Legal Assessment

Drawing on the established facts and the applicable legal framework, the following probable procedural violations can be identified. Each is grounded in established law and based on facts drawn from verified public sources.

In the first place, and more importantly, the physical assault of Suryawanshi in police custody, as revealed in the magisterial inquiry report, amounts to a violation of Section 46 of the BNSS 2023, Article 21 of the Constitution, and the basic principle of common law that a person in State custody is protected by the State. Custodial violence has been treated by the Supreme Court in *D.K. Basu* as violating Article 21 and hence entitling the State to pay compensation, which is a constitutional remedy, quite separate from any claim for tort. In the case of *Nilabati Behera v. State of Orissa* (AIR 1993 SC 1960), where compensation was paid to the mother of a man killed in police custody, it has been held that the right to life guaranteed under Article 21 remains alive even after the person is in custody.

Secondly, the lack of preparation of a proper attested arrest memo, should that be found true, will amount to a breach of Section 36 of the BNSS 2023 and the first three D.K. Basu guidelines. The arrest memo performs several purposes: It forms the record of the fact and circumstances of the arrest, acts as evidence for the arrested individual of the reason for which he or she is detained, and acts as a shield against any later false claim about the arrest.

Thirdly, the fact that the NHRC was not intimated regarding the custodial death within twenty-four hours, as per the standing instructions issued by the NHRC and further confirmed by the Apex Court in *Paramvir Singh Saini v. Baljit Singh* ((2021) 11 SCC 50), amounts to non-compliance with an institutional mandatory reporting obligation. The NHRC must be informed about the custodial deaths since otherwise, it may prove difficult for the NHRC to discharge its mandate.

Fourthly, the refusal to register the FIR against those responsible for the case despite judicial intervention is indicative of a culture of self-protection prevalent in institutions that remains the most insurmountable barrier to accountability in cases of custodial abuse in India. It is only due to the need for such judicial intervention because of the state government's reluctance to act upon its own findings from its investigation into the matter that the Bombay High Court ordered the FIR to be registered. This pattern has been found repeatedly in custodial death cases in other parts of India, which the BNSS 2023 fails to consider.

Bombay High Court Proceedings and Constitutional Accountability

In its order dated 9th May 2025, wherein the High Court of Bombay instructed that a FIR be lodged against the concerned police personnel within a period of one week, the Court has made a very important use of its power of supervising jurisdiction under Article 226 of the Constitution of India. The power of the High Court under Article 226, through which it can issue a mandamus, making public officials discharge their duties imposed by law, is one of the most important ways to enforce constitutional rights in India.

This intervention carries significance in terms of the Constitution in more ways than one. Firstly, it shows that there has been no change in the constitutional process of ensuring accountability after the transition from the CrPC to the BNSS, and that judicial powers for enforcing compliance with the CrPC can be used just as effectively to ensure enforcement of the BNSS as well. Secondly, it sends out a clear message to the law enforcement agencies in Maharashtra – and by virtue of persuasive precedents set by the High Court in India – that failure to bring charges against those who have caused custodial deaths will result in a judicial compulsion.

The role of the MSHRC in the case at hand can equally be critically analyzed. Indeed, it was the MSHRC that received the magisterial inquiry report, and upon analysis of the same, filed the court petition. But while the fact that the MSHRC failed to get action from the State government under its powers under the statutes could be interpreted as the most obvious weakness of the human rights commissions in India – in that they can only make recommendations and not enforce – BNSS 2023 fails to remedy this situation, since it does not speak about the involvement of human rights commissions in supervisory functions for arrested people.

The Broader Pattern: Custodial Deaths in India

The case of Suryawanshi does not stand in isolation; rather, it forms part of a worrying trend of deaths in custody across India. In the period up to the first eight months of 2024, the NHRC documented 107 custodial deaths, which was one of the highest in the country in terms of numbers. As per the Prison Statistics of India 2022 published by the NCRB, there were 1,764 deaths in judicial custody and 175 deaths in police custody in the year 2022. While all deaths do not necessarily entail violence, a significant number do.

The social profile of those individuals who become the victims of custodial deaths in India is far from being random. Members of the Scheduled Castes and Scheduled Tribes, members of religious minorities, as well as socially and economically disadvantaged individuals are much more likely to become victims of such incidents. It is noteworthy that Suryawanshi belongs to the Wadar Scheduled Caste community, which is another illustration of this general trend. The structural disadvantage that individuals from disadvantaged castes face due to caste discrimination in India becomes compounded by the police force's power and ability to use violence against citizens.

Evidence gathered from other democratic nations reveals that an independent mechanism of oversight is the most effective institutional barrier to custodial death cases. An example in this regard can be provided by the Independent Office for Police Conduct (IOPC) created through the Policing, Crime, Accountability and Courts Act, 2017 in the United Kingdom. The mechanism followed here involves independent investigation into death cases within the custody of police institutions, along with recommendations and publication of findings. India's current framework of oversight is structurally weak due to lack of independence and effectiveness.

Discussion: The BNSS 2023 as a Reform Instrument

The Suryawanshi case reveals the inherent contradiction within the process of reforming the criminal procedure law in India: the difference between a well-crafted statutory framework and the operational environment in which such a framework needs to operate. In its BNSS 2023, India has provided better protections to those who have been arrested. The provisions relating to electronic information on arrest, forensic investigation, designation of officers, and stricter use of CCTV surveillance systems can all be seen as part of a complete legal framework for ensuring the rights of those who have been arrested. However, within only six months of its implementation, a case has arisen where an individual died as a result of being physically assaulted while he was in custody, and where the State government took no action to prosecute him until directed by the High Court.

This is not to say that the BNSS 2023 has no value as a tool for legal reform. Rather, what it shows is that the worth of legal reform is dependent on the presence of other institutional reforms, which can only be brought about through measures other than those contained in the legislation itself. In the Suryawanshi case, the following three additional reforms appear to be imperative: First, the audio-video recording of all dealings between the police and the accused in custody within the first 24 hours of detention. Second, the creation of an independent Police Complaints Authority with investigative jurisdiction over claims of custodial torture. Third, an overhaul of police training with the integration of constitutional rights as a value of policing.

CONCLUSION

Unfortunately, the killing of Somnath Suryawanshi at Parbhani, which took place in December 2024, was an incident that required both individual accountability, as directed by the Bombay High Court, and reflection on a more comprehensive level. It appears that even the BNSS 2023, with all of its progressive features, was unable to stop the alleged violations in this case. Clearly, no matter how revolutionary and advanced a legislative framework may be, it alone can never create the necessary change within such an institution as the police force.

The three imperatives that emerge from this case -- mandatory audio-video recording, independent oversight with binding powers, and a shift from confession-based to evidence-based policing -- are each individually necessary and collectively insufficient without the fourth imperative of political will. India's constitutional democracy has produced, over seven decades, a rich jurisprudence of rights protection. The challenge is to translate this jurisprudence from the law reports to the police station. Until that translation is complete, cases like Suryawanshi's will continue to expose the distance between the constitutional promise and the custodial reality.

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