# IN THE HIGH COURT OF JHARKHAND AT RANCHI

# (Criminal Writ Jurisdiction)

**W.P. (Cr.) No.\_\_\_\_\_\_of 2021**

**In the matter of:-**

An application under Article 226 of the Constitution of India.

And

**In the matter of:-**

Govind Kumar Hansda, aged about 28 years, s/o Jitan Manjhi, Ward No- 08, Dhawaiya, P.O. &P.S. Penk, Thana- Nawadih, Bokaro, Jharkhand- 829112. **….Petitioner**

**Versus**

1. The State of Jhakhand, Through Director General of Police, HEC Admin, P.O. &P.S Dhurwa, Ranchi Jharkhand 829112.
2. The Superintendent of Police, Bokaro, Office of Superintendent of Police, P.O &P.S & dist. Bokaro, Jharkhand 829112.
3. The Officer in Charge of Penk- Naraayanpur Thana, P.O. &P.S. Penk, Thana- Nawadih,Dist- Bokaro, Jharkhand 829112.
4. The officer-in-charge, Scheduled Caste and Scheduled Tribes police station P.O.Bokaro, P.S. Bokaro Sadar Dist- Bokaro, Jharkhand- 829112  **…. Respondents**

TO,

HON’BLE MR. JUSTICE DR. RAVI RANJAN, THE CHIEF JUSTICE OF THE HIGH COURT OF JHARKHAND AND HIS OTHER COMPANION JUDGES OF THE SAID HON'BLE COURT.

The humble petition on behalf of the petitioner above named.

**MOST RESPECTFULLY SHEWETH:**

* + - 1. That in the instant petition, the petitioners pray for issuance of an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-

1. Direction upon the Respondent/ State to register a FIR.

And/or

1. Direction upon the respondent/ State authorities to immediately arrest the accused persons as they are in the position to influence the investigation and induce the witness.

And/ Or

1. Further a direction may kindly be passed to pay suitable litigation cost to the petitioner.

And/or

1. Any other relief or order Your Lordship may deem fit and proper in the facts and circumstances of the case.
2. That the petitioner has not moved earlier before this Hon’ble Court for same relief(s) as sought in the present writ application.
3. That in the facts and circumstances of this case, the substantial questions of law which may inter- alia arise for kind consideration of this Hon’ble Court are as follows:-
4. Whether in the light of Supreme Court’s Constitution Bench Judgment in the case of ***Lalita Kumari****,* the respondent/ state is duty bound to register a FIR on the complaint of the petitioner which discloses a cognizable offence?
5. Whether the petitioner is liable to be compensated as the state has violated Article 14& 21 of the constitution?
6. Whether the petitioner being the citizen of India is entitled to the protection of law as guaranteed and mandated under the Constitution of India?
7. That the petitioner is a citizen of India and as such he is entitled to the protection of law as enshrined in Indian Constitution.
8. That the cause of action for this writ petition has arisen within the territorial jurisdiction of this Hon’ble High Court.
9. That the petitioner is the brother of the victim, Banshi Manjhi, who was assaulted by the police.
10. That the brief facts of the case is as follows-
11. On 12.12.2020, around 5:30 pm, Banshi Manjhi was returning and on the Budgadda More, the police stopped him for checking and inquiry of him.
12. After inquiring about it, the police adivaasi used slangs and abused and tortured him using abusive language.
13. **The ASI, Suman Kumar Singh with his other colleagues, used a gun’s nib to harm Banshi and injured him.**
14. When Banshi got conscious then he was threatened by the police. Banshi anyhow reached home but got fainted and was drenched with blood so he was taken to IEL Gomia Hospital for treatment.
15. The doctors told the patient’s family that Banshi’s nasal bone as well as teeth got broken and he got serious injuries on his head. Then, the doctor immediately referred to Muskan Hospital, Bokaro.
16. While going to Bokaro Hospital, Suman Kumar sinha, along with his colleagues followed the petitioner’s family and threatened them “**that if we file the case against them in Thana, the police would murder the entire family members”.**
17. Earlier it was seen that 2-3 months before Banshi Manjhi and Intiyaaz Ansari had a dispute regarding land dispute and threatened him to murder the entire family.
18. That, the petitioner wanted to file this case in the police station but they did not file the FIR. The petitioner complaint the FIR in Online FIR Portal, but Nawadih Thana did not accept this.
19. Thus, the petitioner requests that in the above subject, FIR should be registered and security must be granted and given to them.
20. That on 27th January, Petitoner sent complaint letter by speed post to the superintendent of police, Bokaro. But no FIR has not been registered yet.

Photo/True copy of complaint letter is being annexed as **Annexure-1** to this writ application.

1. That the petitioner has sent a letter to ST&SC station dated 15/12/2020 for their family’s security and to file a FIR against the convicts and provide them justice to do the same.

Photo/True copy of Representation is being annexed as **Annexure-2** to this writ application

1. That the petitioner has sent a letter to superintendent of police, Bokaro dated 15/12/2020 for their family’s security and to file a FIR against the convicts and provide them justice to do the same.

Photo/True copy of Representation is being annexed as **Annexure-3** to this writ application

1. That the petitioner also filed an online FIR in which complains No. 532505 was assigned. But the complains was disposed and no FIR was registered.

Photo/True copy of Representation is being annexed as **Annexure-4** to this writ application

1. That it is humbly stated and submitted that the Constitution bench of Hon’ble Supreme Court in the case of ***Lalita Kumari* vs*. State of U.P &Others (AIR 2014 SC 187)* o**bserved in para 73 that;

*“…The legislative intent is therefore quite clear, i.e., to ensure that every cognizable offence is promptly investigated in accordance with law. This being the legal position, there is no reason that there should be any discretion or option left with the police to register or not to register an FIR when information is given about the commission of a cognizable offence. Every cognizable offence must be investigated promptly in accordance with the law, and all information provided under Section 154 of the Code about the commission of a cognizable offence must be registered as an FIR so as to initiate an offence. The requirement of Section 154 of the Code is only that the report must disclose the commission of a cognizable offence and that is sufficient to set the investigating machinery into action.”*

1. That the State has miserably failed in its duty to protect the inalienable Right guaranteed by our Indian Constitution. In ***Rudal Sah* v*. State of Bihar*** *(1983) 4 SCC 147-148 Hon’ble* Supreme Court observed that:

*“In these circumstances, the refusal of this Court to pass an order of compensation in favor 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. One of the telling ways in which the violation of that right can be reasonably be prevented and due compliance with the mandate of Article 21 secured, is too much its violators 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 of 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”.*

1. That it is most humbly stated that Article 21 and 14 of the Indian Constitution not only guarantees Right to Life and Personal Liberty but also casts a duty upon state to safeguard it.
2. That it is further submitted that Article 21 and 14 of Indian Constitution not only protects the Indian citizen but also the alien from arbitrary actions of the state, and in case the state fails to safeguard this inalienable right, in such cases it must compensate the victim. In ***Chairman Railway Board &Others* Vs*. Chandrima Das (Mrs.) &Others (2000) 2 SCC 465****,* the Hon’ble Supreme Court confirmed the judgment of Calcutta High Court in which it awarded Rs. 10,000,00/- compensation to a lady who was a Bangladeshi citizen and was raped by the employees of railway in Rail Yatri Niwas at Howrah Station.
3. That it is most humbly submitted that in the light of Supreme Court’s Constitution Bench Judgment *in the Case Of Lalita Kumari*, the respondent/ state is duty bound to register a FIR on the complaint of the petitioner which discloses a cognizable offence.
4. That the petitioner being a citizen of India is entitled to the protection of law as guaranteed and mandated under the Constitution of India.
5. That petitioner seeks leave of this Hon’ble Court to add, alter, amend or delete part or portion of the petition as and when found necessary for the ends justice.
6. That in view of the facts and circumstances, the petitioner has no other efficacious, alternative, speedy and economic remedy that to invoke extra ordinary inherent jurisdiction of this Hon’ble Court.
7. That the instant application is being made bona fide and in the interest of justice.
8. That the other and further grounds shall be urged at the time of hearing on this petition.

It is, therefore, prayed that Your Lordships May graciously be pleased to issue writs and pass following directions:

1. Direction upon the Respondent/ State to register a FIR.

And/or

1. Further a direction may kindly be passed to pay suitable litigation cost to the petitioner.

And/or

1. Any other relief or order Your Lordship may deem fit and proper in the facts and circumstances of the case.

**And for this Petitioner shall ever pray.**

**A F F I D A V I T**

I Govind Kumar Hansda, aged about 27 years, s/o Jitan Maanjhi, Present address: Ward no- 08, Dhawaiya P.S- Nawadih, P.O: Penk, Dist. Bokaro (Jharkhand). - 829112 do hereby solemnly affirm and state as follows: -

1. That I am the petitioner and fully acquainted with the facts and circumstances of this case.
2. That the contents of this application have been read over and explained to me in Hindi which I have fully understood.
3. That the statements made in paragraphs………………………………………… is/are true to the best of my knowledge, those made in paragraphs……………………………………………… are true to the information received from the record and rest are by way of humble submission before this Hon’ble Court.
4. That the Annexure are true/photo/typed/certified copies of their respective originals.

Verified, Sworn & Signed on at the premises of High Court at Ranchi.