

Human Rights Defenders Alert - India

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Shri A. K. Parashar

Focal Point - Human Rights Defenders

National Human Rights Commission

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Copernicus Marg

New Delhi-110001

Email: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action –India/Rajasthan, Sikar: PUCL (People's Union for Civil Liberties) executive member and leading anti mining activist Kailash Meena arrested on false charges - Reg

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a Forum of Human Rights Defenders for Human Rights Defenders. It endeavours to initiate actions on behalf of Human Rights Defenders under threat or with security concerns.

We are now writing to express our grave concern regarding the case forwarded by the Ms. Kavita Srivastava, the National Convenor of HRD Alert India over the arrest of Kailash Meena, member of the executive committee of the PUCL, Rajasthan State branch and a leading anti mining and anti displacement activist on false charges.

Incident

Name of the Perpetrators: Patan Police Station police and MLA Ramesh Khandelwal

Place of incident: Patan Village, Neem ka Thana Tehsil, Sikar District, Rajasthan

Date and time of incident: 20th December 2011, 1.15 pm

About the Activist:-

Kailash Meena (42 years) has been a human rights worker for the last 20 years and has continuously highlighted atrocities against dalits, women and other weaker sections of society. His area of work has been Karauli district as well as Sikar in

Rajasthan. And ever since the Supreme Court ordered the closure of mines along the Aravalli range in Haryana, most mining operations moved to Rajasthan. This has affected the life of citizens of Sikar and Jhunjhunu and for four years now, Kailash Meena has been actively involved in exposing the crimes of the mining mafia and providing a platform to voices resisting illegal mining in the area. He was elected to the Rajasthan PUCL executive in 2010. As recent as on 9th December on the eve of Human Rights, Kailash had addressed a press conference in the presence of Aruna Roy and Prem Krishan Sharma PUCL, Rajasthan President fearing his arrest.

According to the information received, Kailash Meena has been booked under four false cases in the months of April, May and June, 2011 during the resistance of the people of village Dabla against illegal mining, blasting and stone crushing. Several petitions had been presented to the Home Secretary, the DG police, the District Collector and SP of Sikar in this regard. However, the false cases continued.

Case Narrative:

Kailash was picked up by the Patan Police Station police on the 20th of December, 2011 at about 1.15 pm from Patan village and taken to the police station and put in a lock up, and despite being a senior activist he was asked to remove his clothes. In a short while, the SHO Naresh Chand arrived. He along with ASI Chetan Ram and constable Sis Ram and several people from the mining lobby mostly from Haryana poked fun at him from the other side of the lock-up. Of the people from the mining lobby, Kailash recognised one Mahendra – a local mine lease holder and the rest were mostly from Haryana and the SHO seemed to be reporting Kailash's plight to one Pappu Rana, a known henchman for local MLA Ramesh Khandelwal.

The police also seized his spectacles, his blood pressure medicines and Rs 125 and kept him in the lock-up for three hours. They produced him in a local court at around 4.15 pm and requested police custody for a few days. However, Kailash requested the court to be given an opportunity to present his own case and that he was a PUCL activist and that his arrest was an act of political vendetta. He also told the court that there was a possibility of him being tortured citing the earlier case of Sanwal Ram who in June this year was arrested and tortured. Kailash also told the court

about the people's struggle against illegal mining in the area, of which he is a part. The magistrate seemed convinced and sent Kailash to judicial custody instead.

It is important to note that the lawyers of Tehsil Neem ka Thana have been on strike for some time now and it still continues thus he could not get a lawyer to represent himself. The police also managed to dodge Kailash's supporters, who were prevented from reaching the court and Kailash was sent to judicial custody without meeting any of his colleagues.

On the way to the court the police took Kailash to a local Doctor, being a BP patient and having missed his afternoon dose of B.P medicines he looked visibly uncomfortable and was thus shown to a doctor. He was given medicines for two days.

He has been booked under four false cases while the Dabla movement against stone crushers was on. Three cases have just been made out in Patan Thana and one in Neem Ka Thana. Patan Thana FIRs are as follows. FIR number 108 dated 4/5/2011 u/s 147/332/353/336, this was the FIR when Kailash Meena was not even present in Dabla village when the police. FIR number 250 dated 24/04/2011 u/s 452/323 and 3-1-10 of the SC and ST Act, was also made out falsely by the mining lobby people when the movement was at its peak and similarly, FIR no 124, dated 14/06/2011 u/s 452, 323, 143 of the IPC, is totally false, when PUCL interns had gone to Dabla and had on the way stopped on the roadside to simply see the chemical factory of the MLA Ramesh Khandelwal, it was falsely implicated that they had threatened the MLAs man.

It is clear that Kailash Meena has been arrested as he has confronted the mining lobby which has MLA Ramesh Khandelwal as its guardian. Because of the success of the movement stone crushing and mining had stopped in Dabla, Sikar.

His present arrest is in the following two cases.

FIR number 108 dated 4/5/2011 u/s 147/332/353/336, this was the FIR when Kailash Meena was not even present in Dabla village when the police. It states that Mr Kailash Meena and others who were at a dharna protesting the construction of a road over a pasture land in village instigated the people and they threw stones at the

police officials who had come to vacate the road which had been set apart on the pasture land by the district collector. They were charged with causing hurt and obstruction in the course of the official duty of the police and administrative officials as well endangering their life.

FIR no 124, dated 14/06/2011 u/s 452, 323, 143 of the IPC, is totally false, when PUCL interns and other activists had gone to Dabla on a study tour and had on the way stopped on the roadside at Raipur Mod to simply see the chemical factory called Star Mineral Factory, belonging to the local area MLA Ramesh Khandelwal and also of the ruling Congress party. They were charged with trespass and causing hurt and rioting against the MLAs man.

It is clear that Kailash Meena has been arrested as he has confronted the mining lobby which has as its guardian the ruling party MLA Ramesh Khandelwal. The resistance was powerful that there was administrative action from the highest level. The Divisional Commissioner at the behest of the Chief Secretary had also put together a report in the month of August which finally resulted in all the five stone crushers in the village Dabla, Sikar stopping all operations since then. The anti mining lobby has tried its best to restart mining and stone crushing operations. Despite the lobby being aggressive they have not succeeded. There have been attacks, intimidation on the movement activists. In the month of June the police arrested activist Sanwal ram from that area against case FIR 124. 2011, dated 14.06.2011, against which Kailash too has been arrested by the police, this incident took place when a group of PUCL interns from Jaipur along with other activists had gone on a study tour to Neem Ka Thana. So paranoid was Ramesh Khadelwal and the police that they attacked the interns and arrested Sanwal Ram. .

As recent as on 9th December on the eve of Human Rights, Kailash had addressed a press conference in the presence of Aruna Roy and Prem Krishan Sharma PUCL, Rajasthan President fearing his arrest. The PUCL had said that human rights defenders in Rajasthan are under great threat as the administration, police and the judiciary are all working in the interest of corporate and are out to crush movements and their leaders.

The Day of the Arrest

Kailash was picked up by the Patan Police Station police on the 20th of December, 2011 at about 1.15 pm from Patan village and taken to the police station and put in a lock up, and despite being a senior activist he was asked to remove his clothes. In a short while, the SHO Naresh Chand arrived. He along with ASI Chetan Ram and constable Sis Ram and several people from the mining lobby mostly from Haryana poked fun at him from the other side of the lock-up. Of the people from the mining lobby, Kailash recognised one Mahendra – a local mine lease holder and the rest were mostly from Haryana and the SHO seemed to be reporting Kailash's plight to one Pappu Rana, a known henchman for local MLA Ramesh Khandelwal.

Attempt to get bail

It is important to understand the timing of the arrest and the sequence of events relating to rejection of his bail application. Kailash was arrested on December 20, produced in court the same day and sent to judicial custody. On December 21 Kailash's colleagues went to the jail, got him to sign the bail application and submitted the same to the court without lawyers, since they were on strike. The court immediately ordered the production of the case diary. His colleagues then presented the court's directions to the Patan police station.

On December 22, two senior PUCL activists went to Neem ka Thana to stand in court and argue if required on Kailash's behalf, after reaching the court, the activists were surprised to see the link magistrate sitting casually with the SHO outside the courtroom and later learnt that Kailash's bail application would not be heard by the court since the case diary could not be presented. The police cleverly reported that the case diary had been sent for scrutiny to the Superintendent of Police in Sikar as they had recommended a charge sheet against Sanwal Ram and Kailash Meena thus could not be presented to the court. The magistrate who had the previous day granted Kailash judicial custody had gone on leave and thus the matter was presented in front of the link magistrates.

The activists contacted the Superintendent of Police in Sikar who seemed totally unaware of any such file. However, after the activists insisted, he agreed to send the

case diary immediately if it was with him, but nothing arrived before the court closed for the day. When they went to the Deputy SP office to get further clarity on the situation

The case diary arrived on December 23, but the link magistrate had by then proceeded on leave and the case had to be sent 50 km away to Srimadhapur to another link Magistrate. The case was heard at around 3.30 pm after which, bail was rejected. The grounds for rejection were not known till late evening as no lawyers were available to access the file. The grounds will only be known once the copy is available on December 24.

The courts will be closed for vacation from Monday onwards till January 2, 2012.

A chance will be taken in the vacation court on Monday at the district court in Sikar.

Other False cases under which he could be arrested

He has also been booked under the following two cases: FIR number 250 dated 24/04/2011 u/s 452/323 and 3- 1 - 10 of the SC and ST Act, was also made out falsely by the mining lobby people when the movement was at its peak. They cleverly included the name of Kailash Meena in the fight between two liquor contractors just to malign him that he keeps the company of the liquor lobby and to present him as a local goon. Interestingly the woman that he is charged of having attacked is the aunt of the woman constable posted in the Patan Police station.

Similarly on the FIR number: 346; 3/6/2011 he was booked under sections 332/353/143. It states that Mr. Kailash Meena and others entered the SDM court and attacked the SDM and other officials by matkas and tore the clothes of one of the functionaries as well as pushed them and tore official documents.

Kailash is a Human Rights Defender and is protected under International law on human rights defenders to which India a signatory since 1998. We feel that it is the bounden duty of the State to see that this harassment is stopped and he be released at the earliest.

Appeal

We, therefore, urge you to immediately take necessary steps to

1. Guarantee in all circumstances the physical and psychological integrity of the human rights and anti-mining activist Mr. Kailash Meena;
2. Ensure the closure of all the false cases against Kailsh Meena and his immediate release;
3. Put an end to acts of judicial harassment against Mr. Kailash Meena and more generally, against all human rights defenders in India;
4. File criminal cases against the MLA, the police and the complainants who have filed these false cases simply using it as a tool of harassment;
5. Conform to the provisions of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, especially:
 - Its Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”;
 - its Article 6(a), which provides that “everyone has the right, individually and in associations with others, to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms”;
 - and its Article 12.2, which states that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.
6. Provide all the necessary medical assistance to Kailash and be checked up thoroughly by Doctors in the Jail so that his health is at no risk.

Looking forward to your immediate action in this regard,

Yours sincerely,

Henri Tiphagne

Hon. National Working Secretary,
Human Rights Defenders Alert - India