

Human Rights Defenders Alert - India

National Coordination Office

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Madurai, 21st October 2010

The Chairman
National Human Rights Commission
Faridkot House
Copernicus Marg
New Delhi-110001

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action - West Bengal: Arrest and illegal detention of Human Rights Defender 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 about the violation of constitutional rights and legal mandates in the arrest of Mr. Ajit Mahato, a human rights defender and also a renowned folk artist (Jhumur singer).

Issue:

Name of the perpetrators:- (i) The police personnel of Manikpara Police Camp under Jhargram Police Station and the members of the Joint Force who were involved in the arrest of the victim; (ii) Mr. Md. Julfikar Molla, Inspector-in-Charge of Jhargram Police Station and also being the Investigating Officer of Jhargram Police Station Case no. 280/2010 dated 18.9.2010.

Place of incident: - At the residence of the victim at village-Golbandi, Police Station-Jhargram, District-West Medinipur, West Bengal.

Date & time of incident: - On 18.9.2010 at about 6.30 am.

According to the information on 18.9.2010 at about 6.30 a.m. the police personnel of Manikpara Police Camp under Jhargram Police Station and the

members of the Joint Force (of Para-military forces such as Central Reserve Police (CRP), Border Security Force (BSF), etc, operating in the area to curb Maoist activities) encircled the residence of the victim. The police personnel who carried the arrest neither disclosed any reason for the apprehension of Mahato nor prepared any "Memo of Arrest" at the time and place of arrest. After the arrest, Mahato was immediately taken to Manikpara Police Camp and detained there. On that day he was not produced before any Judicial Magistrate. During his detention he was not told the reason for his apprehension despite his repeated requests in this regard. Also, he was not allowed to meet his family members.

On the next day i.e. 19.9.2010 at about 10.00 am he was taken to the court of Additional Chief Judicial Magistrate, Jhargram and detained in the court lock-up. It was then revealed that Mahato was implicated in a criminal case vide Jhargram Police Station Case No. 280/2010 dated 18.9.2010 under sections 147 (punishment for rioting) / 148 (Rioting, armed with deadly weapons) / 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object) / 120B (punishment for criminal conspiracy) / 121 (waging, or attempt to wage war or abetting waging of war against the Government of India) / 121A (conspiracy to commit offences punishable by Section 121 / 122 (collecting arms, etc., with intention of waging war against the Government of India / 124 (Assaulting President Governor, etc., with intent to compel or restrain the exercise the of any lawful power) / 124A (Sedition) of the Indian Penal Code and Section 3 & 4 of Explosive Substances Act.

The aforesaid criminal case was slapped on Mahato upon a written complaint received by Jhargram Police Station on 18.9.2010 at 06.40 pm on the letter pad of "Democratic Youth Federation of India", Lodhasuli Local Committee, Lodhasuli, West Medinipur. The said "Democratic Youth Federation of India", is a sister organization of the ruling political party i.e. Communist Party of India (Marxist) [CPI (M)] in West Bengal. It was alleged in the said complaint that Mahato and several other members of the Maoist

group detonated explosives at the party office of CPI (M) at Lodhasuli and demolished the same on 12.9.2010 at around 1.00/1.30 pm.

On 19.9.2010 Mahato was released from custody on bail by strength of an order passed by the court of Additional Chief Judicial Magistrate, Jhargram. The said Judicial Magistrate while passing of the order for release of the victim on bail considered the following facts inter alia into his judicial notice that –

- (i) the alleged incident as written in the FIR had taken place on 12.9.2010 but the complaint has been lodged in the police station only on 18.9.2010;
- (ii) prima facie the allegation of demolition of the local party office of a political party does not seem to have attracted the offence of waging war against the government;
- (iii) no seizure was effected from the possession of the accused (victim) which can prima facie loosen him out in the offence under section 3 & 4 of Explosive Substance Act.

According to information received, the police arrested the victim without having any definite charge against him at the time of his arrest and later implicated him in a criminal case upon a complaint which is politically motivated and manufactured to relate the victim with Maoist activities.

Appeal:

Therefore we request you ensure that authorities

- Carry out an immediate, thorough and impartial investigation into the incident of illegal arrest and detention of Mr. Ajit Mahato with a view to bring those responsible to justice in accordance with national and international standards;
- The charges brought against Mr. Ajit Mahato are politically motivated; hence, the victim must be freed from all charges immediately.
- Take all necessary measures to guarantee the physical and psychological security and integrity of Mr. Ajit Mahato and all other human rights defenders.

- Guarantee in all circumstances that human rights defenders in India are able to carry out their legitimate human rights activities without fear of reprisals, and free of all restrictions including judicial harassment.
- Create an enabling environment and ensure respect for the rights of individuals in West Bengal engaged in the peaceful promotion of respect for human rights.

Looking forward to your immediate action in this regard,

Yours sincerely,

Henri Tiphagne

National Coordinator

Human Rights Defenders Alert - India