

Human Rights Defenders Alert - India

National Coordination Office
6, Vallabai Road, Chokkikulam, Madurai 625 002.
Tamil Nadu, INDIA
Tel: +91-9994368540 Email: hrda.india@gmail.com

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Shri A. K. Parashar
Focal Point - Human Rights Defenders & Joint Registrar
National Human Rights Commission
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi – 110 023
Email: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Kerala: Illegal arrest and detention of student activist – 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 over the illegal arrest and detention of social activist student Salman Zalman on the 20th of August, 2014.

Source of Information on the Incident:

- A communication from the Coordinator of HRDA for the South of India.
- Sources on the internet including the Facebook page of the HRD.

About the Human Rights Defender under attack:

Salman Zalman is a student and activist who has been a part of many human rights campaigns in the past and was an artist in the play held in protest against UAPA in front of the Secretariat on August 14th.

The Perpetrators:

- The Police
- An unidentified group of men in the age group 20-30 some of whom are the complainants of the case against Salman Zalman

Date and time of Incident:

12.00 in the midnight on the 20th of August, 2014.

Place of Incident:

The residence of the Human Rights Defender in Peroorkada, Trivandrum, Kerala

Incident

According to the source, on August 20th at 12.00 in the night, Salman, a student and social activist from Trivandrum, was picked up by the police from his home in Peroorkada. The immediate accusation against him was that he had insulted the national anthem while it was being played in a theatre, where he had gone to watch a movie. Later his comments on Facebook, where he questions nationalism as a philosophical and political concept, were also pointed out as a reason for his arrest. It is also being reported that there was a deliberate attempt to frame him by some right-wing Hindutva groups and that they are the ones who are behind his arrest.

On Monday evening, Salman and his friends had gone to the Nila theatre to watch the film 'Njan Steve Lopez'. When the National Anthem was played before the film, he and his friends continued sitting and when it ended, apparently they howled, allegedly in 'contempt'.

There was a clear lack of clarity regarding his arrest and the way it was conducted, late in the midnight hours of August 20th and none of the customary norms were followed during his arrest, he was handcuffed and taken to the Thampanoor Police Station but police themselves later denied this and for a whole night and the next day, even his parents had no access to him and Salman was taken from prison to prison with police refusing to give out any information about him both to his parents and lawyers who had contacted them.

It was only on August 21st evening that it was made known that there was an FIR recorded against him and that a case was registered under IPC 124 A (sedition which could mean imprisonment for life) and 66 A of the Information Technology Act (sending offensive messages through communicative service). Though there were many other students with him, it is surprising that it was only Salman who was picked out and arrested.

According to the orders pertaining to the singing of the anthem published in the Ministry of Home Affairs' website,

“Whenever the Anthem is sung or played, the audience shall stand to attention. However, when in the course of a newsreel or documentary the Anthem is played as a part of the film, it is not expected of the audience to stand as standing is bound to interrupt the exhibition of the film and would create disorder and confusion rather than add to the dignity of the Anthem.”

Here, the anthem was played before a film and there was no obligation on Salman's part to stand up.

A Bihar lower court order in 2005, in response a petition filed against Laloo Prasad Yadav and Rabri Devi, for sitting during the national anthem during the Republic Day celebrations, said that “being seated during a national anthem, however seemingly repugnant, is not a crime against the law.”

The MHA order also says that- “As in the case of the flying of the National Flag, it has been left to the good sense of the people not to indulge in indiscriminate singing or playing of the Anthem.”

The media, too, automatically reiterated the police version in their reports, without attempting to investigate into the case, despite the fact that the police injustice towards Muslim youth is growing day by day. Further, we want to bring attention to the fact that vigilante right-wing Hindutva groups are at present conducting an extremely abusive hate campaign against Salman on Facebook. The abusive comments on his Facebook wall have become so vicious that some even threaten to rape the women who are in support of him.

A string of writers, film makers and human rights activists have signed a petition and strongly condemned the arrest and inhumane treatment at the hands of the Kerala police and called for his immediate release. They consider the charging of IPC 124 A (sedition) on him as a gross over stretching of the sedition act to encroach into the rights of a citizen to criticize the nation and also condemn the abusive campaign being conducted on Facebook and the discriminatory nature of the media reporting. The signatories have also noted that whatever the nature of the crime, the withdrawal of constitutionally established human rights is extremely problematic and illegal and to avoid illegal incarceration and delayed justice they demanded that he should be allowed to use his fair legal rights as promised by the constitution.

Appeal:

We, therefore urge you to immediately take necessary steps to ensure that the Superintendent of Police for Trivandrum

- Orders an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned events, withdrawal of charges levelled against Salman Zalman and brings the erring police to book by another independent senior police officer and puts a stop to this injustice perpetrated by Hindutva forces against Muslim youth which is on the rise;
- Along with the cyber cell takes action against threatening posts made on human rights defenders made on social media
- Along with local district officials guarantees in all circumstances the physical and psychological integrity of Salman Zalman and his family members as they continue to be under risk of further attacks by the perpetrators and give this assurance to the NHRC of India in writing immediately and urgently;
- Along with local district officials puts an end to all acts of harassment against all human rights defenders in India to ensure that in all circumstances they carry out their activities without any hindrances;
- Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially:
 - 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”
 - Article 12.2, which provides 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”;

- More generally, ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with in accordance with the Universal Declaration of Human Rights and with international human rights instruments ratified by India is strictly adhered to in the state of Kerala.

Looking forward to your immediate action in this regard,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath.

Henri Tiphagne

Honorary National Working Secretary