

Human Rights Defenders Alert - India

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27th November 2014

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 – West Bengal: Human Rights Defender arrested on false allegations - Reg

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a Forum of Human Rights Defenders for Human Rights Defenders. It endeavors 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 arrest of Ajimuddin Sarkar a renowned human rights defender of Murshidabad district and District Human Rights Monitor of Banglar Manabadhikar Surakksha Mancha (MASUM).

Source of Information on the Incident:

- The Coordinator of HRDA for the East of India
- A communication dated 23.11.2014 from MASUM

The Human Rights Defender under attack:

Mr. Ajimuddin Sarkar a human rights defender working with Banglar Manabadhikar Surakksha Mancha (MASUM) as a District Human Rights Monitor has been taking up cases of human rights violation by police and Border Security Force personnel because of which he was targeted by a section of police.

He is a resident of village – Bardhanpur under Raninagar police station of Murshidabad district.

He has been facing threats as he was instrumental in unearthing several incidents of human rights violations in the district.

Mr. Ajimuddin Sarkar, was under attack by police, BSF, civil administration in recent past too.

The Perpetrators:

- The Border Security Police allegedly in collusion with the Police Personnel of Raninagar Police Station

Date of Incident:

The 21st of November, 2014, late at night

Place of Incident:

The Human Rights Defender's residence in Bardhanpur under Raninagar Police Limits in Murshidabad District of West Bengal

Incident:

According to sources, Ajimuddin Sarkar was arrested late at night on 21.11.2013 from his residence by the police of Raninagar Police Station. It is reported that he was arrested in an old pending criminal case under the Passport Act on the strength of a warrant of arrest issued by the court. But the selection of time of arrest was deliberate as 22.11.14 was Saturday and 23.11.14 was Sunday and both are court holidays so that he would face difficulty in obtaining bail from the court for ensuring his release. Such conduct of the police is clearly indicative of the fact that a section of police is out to harass him. Ajimuddin Sarkar was not aware of the pendency of the said criminal case and he had not been served with any summons either from the police or the court which is the procedure envisaged under the Criminal Procedure Code. Ajimuddin does not possess a Passport, nor has he ever applied for a passport. He has also never crossed the border of India. Yet the Police have foisted this criminal case against him on a complaint preferred to them by the BSF . This act of the police of Murshidabad district is an attempt to curb the activities of MASUM to protect and promote human rights of the populace of the district.

According to the sources, Ajimuddin was tagged in a false allegation in Raninagar Police Station's Case No. 364 / 2013 dated 5 / 6 / 2013 under section 12 of the Indian Passport Act, 1967 (GR 1738/2013). The case was lodged by one officer of Char Mourasi B.O.P. 'C' Company of 130 Battalion of BSF. But Ajimuddin had no knowledge about the pendency of the said criminal case against him though he on 20.5.2014 filed one application before the ACJM Court, Lalbagh mentioning his apprehension that he was implicated in an unknown criminal case by police and BSF and he wanted to know the particulars of such criminal case. But there was no disposal of his application by the ACJM Court, Lalbagh.

Mr. Ajimuddin Sarkar was produced before the ACJM Court, Lalbagh on the 22nd of November. 2014. Mr. Rana Mohanta, Ajimuddin Sarkar's lawyer narrated how Ajimuddin was assaulted, abused and maltreated by the police at the time of his arrest and thereafter in custody. The Court upon hearing his submission directed that Ajimuddin be released on bail and also directed for his medical examination under supervision of the Inspector of GRO (General Record Office) of ACJM Court, Lalbagh. The Medical Officer, Lalbagh Sub Divisional hospital examined Mr. Ajimuddin Sarkar and advised admission, suspecting ribs were fractured due to fist blows and kicks of police in custody.

As this appeal goes, it has been extremely clear to us that the criminal case in which Mr. Ajimuddin Sarkar was tortured, arrested and produced before the Criminal Court, the police have also included Mr. Kirity Roy, the Secretary of MASUM and a internationally and nationally reputed human rights defender in the same charge sheet and there is in effect a nonailable warrant pending against him. This reveals clearly that this is an attack on MASUM as a human rights organisation consistently involved for its work on the BSF killings and torture across the border and for all the cases it has taken up for the past 9 years on this single issue. Almost all such cases by MASUM have also been referred to the NHRC, the SHRC, the UN SRs on Torture, the UN SR on Extra Judicial Killings and finally a Writ petition that has been filed by MASUM in the Supreme Court of India and which is also pending. etc.

Appeal:

- We, therefore urge that the NHRC immediately takes necessary steps to ensure that It orders an immediate, thorough, transparent, effective and impartial investigation by its high level investigation team comprising not only its

investigation team members but also including a Senior NHRC Special Rapporteur and the National Focal Point on HRDs into the above-mentioned events and brings the offending police personnel to book;

- IT ensures immediate dropping of all the false charges leveled against Mr. Sarkar and Mr. Kirity Roy , provision of immediate interim adequate compensation to Mr. Sarkar for the injuries he has sustained and harassment that he has faced for quite some time now;
- It also ensures that Mr. Sarkar and Mr.Kirity Roy are monetarily compensated for all the physical and psychological pain and sufferings endured by them because of this false case and accompanied torture on Mr. Sarkar;
- It ensures that Mr. Sarkar is immediately provided the best medical treatment by moving him in a well-equipped ambulance to Kolkotta where the best medical attention is urgently and immediately made available to him totally at state expense;
- It ensures that the it intervenes in the court proceedings pending before the Additional Chief Judicial Magistrate Court , Lalbagh with a senior criminal lawyer on its behalf to ensure that all the rights of human rights defenders in such false criminal trials are respected;
- It ensures that it also provides the services of a senior criminal lawyer of experience provided by the State Legal Services Authority of West Bengal to challenge the proceedings before the High Court and also to initiate any criminal action that can be contemplated under law against all those responsible for preferring the false case;
- It ensures that the local district officials such as the District Collector and District Superintendent of Police guarantee in all circumstances the physical and psychological integrity of Mr. Sarkar, Mr. Kirity Roy their families, and all other staff of MASUM as they continue to be under risk of further harassment from the perpetrators and give this assurance to the NHRC of India in writing immediately and urgently.
- 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 the Universal Declaration of Human Rights and with international human rights instruments ratified by India is strictly adhered to in West Bengal.

Yours sincerely,

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

(Henri Tiphagne)

Honorary National Working Secretary