



Human Rights Defenders Alert - India

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October 4, 2015

Shri A. K. Parashar

National 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 - Appeal for Action – Chhattisgarh: Illegal arrest, detention on false charges and custodial torture of a Journalist and human rights defender Mr. Santosh Yadav of Darbha area in tribal Bastar district of Chhattisgarh- regarding

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 Illegal arrest, detention on false charges and custodial torture of a Journalist and human rights defender Mr. Santosh Yadav of Darbha area in tribal Bastar district of Chhattisgarh by the Chhattisgarh Police. Mr. Santosh Yadav has been reporting regularly for the vernacular newspaper Dainik Navbharat as a “stringer” for almost 10 years. Journalist Santosh Yadav has been facing threats on his life from the Chhattisgarh police. Last year, the police threatened to kill him in a fake encounter for his fearless reporting. He was being harassed and pressurised to act as a police informer. Journalist Santosh Yadav remained undeterred and continued to do his reporting assignments.

Source of Information on the Incident:

- The Regional Coordinator of HRDA for East of India
- A communication from PUCL, Chhatisgarh
- A communication with journalists and human rights defenders in Chhatisgarh.
- Media Reports.

Status of the Human Rights Defenders:

Mr. Santosh Yadav is a resident of Darbha town of tribal Bastar district of Chhatisgarh. For the last 10 years he has been involved in the circulation of news papers and reporting of news for vernacular dailies from local areas of Darbha town of Bastar district of Chhatisgarh. Mr. Santosh Yadav has been associated with regional Hindi news paper Dainik Navbharat as a “stringer” for almost 10 years covering Darbha block and Tehsil areas contributing regularly. For the past two years he has also been reporting for an evening daily Dainik Chhatisgarh published from state capital Raipur. Two month back Mr. Santosh Yadav was made the representative or stringer of Rajasthan Patrika to report from Darbha and surrounding areas. He was given this responsibility immediately after the arrest of Mr. Sumaru Nath, journalist of Rajasthan Patrika coming from the tribal community of Chhatisgarh. Mr. Santosh Yadav has been in forefront to report whenever there was any incident in the region. Mr. Santosh Yadav was one of the first reporters to reach the spot at Darbha valley during an attack by Maoists on a Congress party convoy at Keslur, 50 kilometres from Jagdalpur in Chhatisgarh in May 2013 in which several senior Congress party leaders were killed including State congress president Mr. Nand Kumar Patel and Mr. Mahendra Karma, a legislator and the creator of an anti-Maoist militia named Salwa Judum at the behest of the state government. Mr. Santosh Yadav also reported when Maoists strike killed 14 Central Reserve Police Force personnel, including two officers in Sukma district of Chhatisgarh in December 2014. It is because of his fair and objective reporting Chhatisgarh police have targeted him by falsely accusing him to be in collaboration with the Maoists. In the last two years the police have been arbitrarily calling journalist Santosh Yadav to report to police stations and regularly threatening him with dire consequences. The police have also put pressure on Mr. Santosh Yadav to take Rs.5 lakh to facilitate the arrests of Maoists by the police but he refused to do so. In June 2015, the police

took him to Darbha police station and stripped him. Journalist Santosh Yadav has been facing continuous police pressure, harassment and threats to act as a police informer but as a fearless reporter Santosh Yadav refused to relent to the police pressure.

The Perpetrators:

- Mr. Durgesh Sharma, Station House Officer (SHO) Darbha police station, district Bastar
- Mr. Vijay Pandey, Additional SP, Bastar.
- Other police officials of Darbha police station, district Bastar

Date of Incident:

29 September 2015

Place of Incident:

Picked up from his home in Darbha, district Bastar

Incident detail :

According to sources, two police officials from Darbha police station, district Bastar, Chhattisgarh came to journalist Santosh Yadav's house on 29 September 2015 at Darbha and forcibly took him away. The police officials told his wife that IGP of Bastar Range Mr. SRP Kalluri has called Mr. Santosh Yadav for a meeting. When journalist Mr. Santosh Yadav did not return till night, his wife informed his friends to look for him. According to sources journalist Santosh Yadav was preparing a report to be filed in his news paper regarding a programme organised by the police in Darbha on 29 September, 2015.

Darbha region is a Maoists infested area. In order to eliminate Maoists Chhattisgarh police have adopted a new operational tactics. As part of this operation the police carry out search operations in villages and beat them mercilessly and threaten young people and even arrest them. And when the villagers approach the police to release their villagers, the police threaten the villagers and ask them to come to a designated location where they are presented before the media as Maoists or Maoists supporters. The ordinary villagers are asked to take an oath in public not to support the Maoists in future. The events many times are publicised as surrender by Maoists.

Around 15 days before September 29, 2015 Chhattisgarh police had launched constant search and cordoning operations in village Badrimahu around Darbha and picked up some villagers accusing them of being Naxal supporters. When villagers went to the police station at Darbha, they were threatened and asked to come on September 29, 2015 at a place fixed by the police. Journalist Santosh Yadav was in touch with police on behalf of villagers to help them and he was also asked to come for the event. All the villagers reached at the place at 9 am and the programme of taking oath went on till 12.30. The programme saw a large police presence including high officials such as Additional SP of Bastar Mr. Vijay Pandey. After the programme the villagers asked journalist Santosh Yadav to talk to the Darbha police station SHO Mr. Durgesh Sharma for the release of arrested villagers. When Mr. Santosh Yadav went to the SHO, he scolded him and threatened him. After that Santosh Yadav left and went home to file his report. He was forcibly picked up on the same day from his house.

According to sources journalist Mr. Santosh Yadav was kept in Parapa police station which is 10 kilometres from Jagdalpur town, He was badly beaten and tortured in police custody. He was forced to sign a blank paper. On 1 October, 2015 Mr. Santosh Yadav was produced before Jagdalpur Chief Judicial Magistrate and taken on police remand. Chhattisgarh police have booked Mr. Santosh Yadav under sections 147, 148, 149, 341, 120 B, 431, 307, 302 of Indian Penal Code and under "draconian" law, Chhattisgarh Jan Suraksha Adhiniyam known as Chhattisgarh Special Public Security Act, 2005 (CSPSA).

Appeal :

We, therefore urge you to immediately take necessary steps to ensure that the Hon'ble NHRC orders:

- One of its own Special Rapporteurs or a team of its own investigation team members along with the NHRC's focal point on Human Rights Defenders to undertake an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident of illegal arrest, detention and torture of journalist and human rights defender Mr. Santosh Yadav ;

- Take immediate action on the perpetrators, in this case SHO, Darbha Police Station, Additional SP Bastar and other police officials of Darbha Police Station for illegally arresting and torturing Mr. Santosh Yadav
- Take all necessary actions parallelly using the Protection of Human Rights Act 1993 and all other provisions of law to ensure that the defender is immediately released on bail and not further harassed, implicated in false cases and tortured in any way by Chhattisgarh police in future;
- Take urgent action, in view of the danger to the life of the human rights defender, to specially order that the jail authorities take special care to ensure that the police have no access to the human rights defender while he is in judicial custody and further order that the Judicial Magistrate who has ordered his remand ensures directly and indirectly that the HRD is not at all harassed by anyone while in judicial custody;
- In order to ensure that the HRD is safe in judicial custody the NHRC to order that the State Legal Services Authority of the State of Chhattisgarh ensures that a senior competent independent criminal lawyer is appointed to undertake periodic visits to the jail(s) where the HRD is detained and ensure that he is not at all subjected to any form of ill- treatment while in judicial custody and is provided all his rights in judicial custody;
- To order the immediate appointment of a competent senior lawyer practicing on the criminal side in Bastar District of Chhattisgarh to defend the journalist and HRD in all the criminal cases registered against him at state cost with the counsel so appointed reporting to this Hon'ble Commission in periodic intervals as determined by the Hon'ble Commission on the development in the case;
- Order that the District Magistrate and District Superintendent of Police the along with local district officials guarantees in all circumstances the physical and psychological integrity of journalist Mr. Santosh Yadav and his family members as they continues to be under risk of further harassment from the perpetrators and give this assurance to the NHRC of India in writing immediately and urgently, especially because the growing trend of arbitrary and unwarranted restrictions on the basic freedoms supplemented with the impunity of the security forces threatens the very foundations of democracy;

- Ensure the provision of reparation, compensation, apology to the defender for the psychological and physical sufferings he has undergone because of the ill treatment and torture in police custody and provide a re-assurance of not engaging in such acts against HRDs such as Mr. Santosh Yadav;
- Put an end to all acts of attack and harassment against all human rights defenders like Mr. Santosh Yadav in the State of Chhattisgarh to ensure that in all circumstances they carry out their activities as journalists, writers and defenders of human rights without any hindrances;
- Takes steps to conform to 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”;
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Chhattisgarh to also take necessary steps to establish a state focal point for HRDs in order to ensure that HRDs have a new protection mechanism in their own state;
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Chhattisgarh to convene a meeting of all state human rights institutions in the state [women, minorities, right to information, disability, children etc] to ensure that a co-ordinated strategy is developed within the State of Chhattisgarh for the protection of the rights of human rights defenders;

- Recommend urgently and speedily during the pendency of this complaint, the State Government of Chhattisgarh in collaboration with the NHRC Focal Point on HRDs and the SHRC Chhattisgarh to provide sensitization training to law enforcement and security forces on the role and activities of human rights defenders as a matter of priority, with technical advice and assistance from relevant United Nations entities, NGOs and other partners;
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Chhattisgarh in collaboration with the SHRC, Chhattisgarh to publicly acknowledge the importance and legitimacy of the work of human rights defenders, i.e. anyone who, “individually and in association with others, ... promote[s] and ... strive[s] for the protection and realization of human rights and fundamental freedoms at the national and international levels” (Art.1 of the Declaration on Human Rights Defenders);
- More generally, ensures 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 the state of Chhattisgarh.

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 it.

(Henri Tiphagne)

Honorary National Working Secretary