



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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June 21, 2018

To

Mr. Srinivasa Kammath,
Focal Point-Human Rights Defenders,
National Human Rights Commission,
Manav Adhikar Bhawan Block-C, GPO Complex, INA,
New Delhi-110023,
E-mail –ID: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert - Urgent Appeal for Action - Tamil Nadu: Arbitrary arrest of lawyer and human rights defender Mr. Vanchinathan - Regarding

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 arbitrary midnight arrest of lawyer and human rights defender Mr. Vanchinathan on June 20, 2018 at the Chennai airport, Tamil Nadu.

Source of information on the Incident:

- HRDA Regional Coordinator
- HRDs in the state of Tamil Nadu
- Media Reports

Status of Human Rights Defender:

Mr. Vanchinathan is an advocate practicing at the Madurai Bench of the Madras High Court and the state organiser of the Human Rights Protection Council. He is also a member of the recent Save Madurai Kamaraj University (MKU) Movement. He has been very closely associated with the anti-Sterlite movement in Tuticorin. He has been

engaged in undertaking a number of legal interventions through his organisation and other human rights lawyers on a number of people's issues.

The Perpetrators:

Koilpatti Inspector and other Personnel of the Tamil Nadu police

Date of the Incident:

June 20, 2018

Place of Incident:

Chennai Airport, Tamil Nadu

Details of the Incident:

As per the sources, on June 20, 2018, at 11:45 PM, Mr. Vanchinathan was arrested at the Chennai airport. He had returned from New Delhi after ensuring that the stay petition filed in the Supreme Court by the former Vice-Chancellor of MKU was dismissed.

Prior to his arrest on June 20, 2018, he had filed a petition for anticipatory bail in the Madurai Bench of the Madras High Court which came up for hearing on June 18, 2018. It was pronounced dismissed by an oral order of Justice G.R. Swaminathan. The said order of the high court is yet to be made available to the advocates on record in this matter. However, in the absence of any written order, the Kovilpatti PS inspector was present at the airport to arrest Mr. Vanchinathan upon his arrival in Chennai.

He has been arrested in Crime No 190/2018 of Thoothukudi's SIPCOT police station u/s Sec 147, (Punishment for Rioting - 2 yrs), Sec 148 (Rioting armed with deadly weapons – 3 Yrs), Sec 188 (Disobedience to orders duly promulgated by public servants – one month), Sec 353 (Assault or criminal force to deter a public servant from discharge of his duty – 2 yrs), Sec 506(2) (Criminal intimidation - 7 yrs), Sec 3 of the Tamil Nadu Public Property Prevention of Damage and Loss Act 1992 – 5 Yrs). These are all cases where the maximum punishment is less than 7 years, hence not where one requires to be remanded as per the judgement of the Hon'ble Supreme Court of India in Arnesh Kumar versus State of Bihar (2014).

According to the first affidavit filed by the state in the Madras High Court on June 14, 2018, Mr. Vanchinathan had only three criminal cases pending against him. All these cases are in Madurai before the Anna Nagar PS and Tallakulam PS and for offences u/s 143,188 and 341 IPC which are all still in the investigation stage. However, the

high court after hearing the state counsel in the morning on June 18, 2018, granted further time till 2:15 PM to file another counter affidavit. It is in this counter affidavit alone the state stated that there were eight other cases against Mr. Vanchinathan, all in Thoothukudi North, Central, South, SIPCOT and Railway Protection Force registered in the years 2012, 2015 and 2016 and that all these cases are in the FIR stage. Even in all these of cases, there is no offence for punishment of over seven years. It was only after receiving this additional counter affidavit, the high court dismissed orally the anticipatory bail petition. The written order is still awaited.

HRDA expresses strong concerns over the targeting of human rights defenders and lawyers in Tamil Nadu. In Tamil Nadu, it has become a growing pattern of activists and advocates being arrested under false cases and draconian laws to silence dissent and for taking up cases of public importance and human rights violation. HRDA fear further crackdown in Tamil Nadu in the aftermath of the Thoothukudi killings.

Appeal:

Therefore, HRDA most respectfully appeals that this Hon'ble Commission:

- Order an immediate, thorough, transparent, effective, independent and impartial investigation into the above-mentioned incident of arrest and detention of Mr. Vanchinathan;
- Takes necessary steps to ensure that that the no preventive detention law is used against Mr. Vanchinathan based on these frivolous cases pending against him;
- Order for him to be released immediately, unconditionally and all cases foisted upon him be withdrawn;
- Ensure immediate appointment of a competent senior lawyer practicing on the criminal side in Chennai, Tamil Nadu, to defend the HRD in the criminal cases registered against them at the State's cost and with the counsel so appointed reporting to this Hon'ble Commission at periodic intervals as determined by the Hon'ble Commission on the development in these cases;
- Based on an independent investigation, order appropriate legal proceedings against the state officials involved in this targeting of Mr. Vanchinathan;
- Put an end to all acts of harassment against all human rights defenders including Adv. Vanchinathan as well as others in the State of Tamil Nadu to ensure that in

all circumstances they carry out their activities as human rights defenders without any hindrances;

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 drawn underneath it.

(Henri Tiphagne)

Honorary National Working Secretary