



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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Ref No:- HRDA/West/MH/3/8/2018

August 10, 2018

To

Mr. Srinivasa Kammath
National Focal Point - Human Rights Defenders & Deputy 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- Maharashtra: Arbitrary and motivated arrest and criminalisation of human rights defender- Mr. Satish Uke for his work on the controversial Judge Loya case and other matters - 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 writing to express our grave concern regarding the arbitrary and motivated arrest and criminalisation of HRD Mr. Satish Uke for his work on the controversial Judge Loya case and other matters.

Source of information on the incident:

- News reports
- Pradeep Uke, brother of HRD
- HRDs in the Region

Status of Human Rights Defender:

Satish Uke is an advocate and an activist. He has been in the limelight for his petition in the Bombay High Court demanding official compensation for the family of CBI Judge B.H. Loya. Uke has filed petitions accusing the chief minister, Devendra Fadnavis of electoral offences, alleging him of filing inaccurate nominations for 2009 and 2014 Maharashtra assembly elections, and on allegations of corruption.

The Perpetrators:

State Government, Maharashtra
Nagpur Police
Economic Offences Wing, Crime Branch, Nagpur

Date of Incident:

July 31, 2018

Place of Incident:

Nagpur, Maharashtra

Details of the Incident:

It has been reported that on July 31, 2018, Satish Uke, was arrested by the Economic Offences Wing of the Nagpur Police's Crime Branch in a 15/17 year old case under sections 120B, 420, 423, 424, 447, 465, 467, 468, 471 and 474 of the Indian Penal Code. All these sections constitute non-bailable offences pertaining to forgery, cheating and criminal conspiracy and the case has been registered at the Ajni Police Station. Uke's brother Pradeep and another person, Chandrashekar Mate have also been accused in the same case. The criminal complaint against the three of them has been filed by one Shobharani Nalode, the secretary of a cooperative housing society in Nagpur on the allegation that they presented forged documents in order to purchase land from the society.

As per sources¹, Pradeep has alleged that Satish Uke's arbitrary arrest is on account of his active involvement in the case of the death of Judge Loya. It is pertinent to note here that reportedly² Satish Uke was the lone surviving witness of the three people to whom Judge Loya had confided that he was under heavy pressure in the Sohrabuddin fake encounter case, where allegations have been made against the ruling party at the state and centre, BJP's National President Amit Shah amongst others. Satish Uke also recently filed a petition concerning the matter before the Bombay High Court in June 2018, demanding official compensation for the family of Judge Loya, and two weeks before the arrest had reportedly³ filed another application in court requesting that the petition be heard.

While the two other colleagues of Judge Loya, Nagpur lawyer Shrikant Khandalkar and retired district judge Prakash Thombre died in suspicious circumstances

¹<https://www.nagpurtoday.in/crime-branch-arrested-adv-satish-uke-in-alleged-land-fraud-case/07311614.html>

² <http://zeenews.india.com/india/congress-demands-sc-monitored-sit-probe-in-judge-loyas-death-case-2077584.html>

³ <http://www.caravanmagazine.in/society/crime/satish-uke-petitioner-in-case-concerning-judge-loya-arrested-in-nagpur-in-a-17-year-old-case>

treated as accidental deaths following Judge Loya's death, it is reported⁴ that even Satish Uke had narrowly escaped death when on July 8, 2016, heavy weight iron material of 5000-10000 kgs fell on his office. It is also reported⁵ that Satish Uke's colleague and advocate, Abhiyan Barahate, who was working with him to collect information on Judge Loya's death and had just a few days before that received information on Judge Loya's case under Right to Information Act, 2005 and was in the process of applying for information of BJP National President Amit Shah's protocol while visiting Nagpur, received a foul and intimidatory call in the intervening night of March 5 and 6, 2018 from Maharashtra Chief Minister Devendra Fadnavis's cousin Sanjay Fadnavis, inter alia threatening that he would be picked up by the police and put behind bars and tortured if he continued his work.

Satish Uke had infact recently in June 2018 filed a petition before the Nagpur Bench of the Bombay High Court demanding the reconstruction of the record pertaining to his police complaint filed on June 8, 2016 in respect of the attack / incident that took place at his office on the same day, after he was informed by the police upon his seeking information on the investigation that although spot panchanama was prepared, there is no entry in the station diary and no further investigation was carried out. On June 21, 2018, the Nagpur Bench of the Bombay High Court issued notice in the matter, which is currently pending.

Accordingly this is not the first instance of intimidation and targeting faced by Satish Uke, who is considered to be a whistleblower in the Judge Loya case. While being under constant scrutiny from mainstream media, he has been under threat and faced severe backlash for pursuing the Judge Loya case.

In an indication of what is at play, the decision to arrest Satish Uke in this old case, came just a week after the Nagpur Sessions Court issued notice against Maharashtra chief minister Devendra Fadnavis on July 24, 2018, to respond to a revision application filed by Satish Uke in a case alleging suppression by the minister of pending criminal cases against him while filing nomination papers which constitutes an electoral offence. In addition to the same, Satish Uke had also filed a

⁴ <https://thewire.in/politics/judge-loya-bjp-congress-supreme-court>

⁵ <http://www.caravanmagazine.in/vantage/fadnavis-cousin-threatens-lawyer-gathering-information-on-loya-case>

complaint with several authorities inter alia alleging corruption by the chief minister and raising several other issues on July 9, 2018.

While it is highly unusual that a case of civil nature concerning a land deal is being handled by the Economic Offences Wing (EOW) of the crime branch, what is even more suspect is that reportedly⁶ the complaint in respect of these alleged offences which dates back 15/17 years, was filed by the informant only in April 2018, and the F.I.R. in respect of the same, registered by EOW on the same day as the arrest, after the local police did not register the criminal complaint on account of it being a civil dispute. Not only this, it appears that civil suits in respect of the same matter are pending before the civil court. As per Lalit Wartikar, the investigating officer in this case, there is no political motive behind the arrest. But the timing of the arrest is doubtful bearing in mind Satish Uke's persistent pursuit of the proceedings in Judge Loya's case and the serious allegations challenging the credibility of Maharashtra CM Devendra Fadnavis.

While extending police custody of Satish Uke on August 4, 2018 for two days, the Magistrate Court in Nagpur, who is seized of the matter, made an observation that the case is principally a civil dispute. When produced before the Magistrate Court on August 6, 2018, Satish Uke filed an application in person, to place certain facts pertaining to his detention, interrogation and arrest on record. He informed the court in the application that he was asked to hand over papers pertaining to the Judge Loya case and was interrogated extensively on the Judge Loya case while under arrest, and was also threatened that the police had instructions to harass his family members if he did not cooperate. Through the application he also put the Magistrate to notice of the threat to him, his family, juniors and colleagues. However no protective or other orders have been passed in respect of the same. Satish Uke was remanded to judicial custody on the same day and has been thereafter granted bail by the Magistrate Court on August 9, 2018.

In the above circumstances, HRDA strongly believes that in what appears to be a vindictive attack, in all likelihood Satish Uke has been intentionally targeted and criminalised on account of his aforesaid work as a human rights defender, whistleblower and a crucial witness in the case of the death of Judge Loya, and is

⁶ <http://www.caravanmagazine.in/society/crime/satish-uke-petitioner-in-case-concerning-judge-loya-arrested-in-nagpur-in-a-17-year-old-case>

under considerable threat. This is also an attempt of the State to silence whistleblowers like Satish Uke, who take personal risks in the fight for justice and stand for constitution and the rule of law. In light of the previous suspicious attack on him and the death of other prime witnesses in the case, it is likely that Satish Uke faces danger to his life and body, and also to his family and colleagues. It is accordingly pertinent that urgent action be taken to ensure that no harm is meted on him or his family or colleagues.

Appeal:

Hon'ble Commission is duty bound to protect human rights defenders and especially in this situation when they are being targeted across the country through a set narrative. HRDA urges the Hon'ble Commission to acknowledge the urgency of the situation and immediately take urgent actions through the powers enshrined by the Protection of Human Rights Act 1993 and:

Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned criminal case being pursued against human rights defender Satish Uke, his brother Pradeep and Chandrashekar Mate;

Ensure that human rights defender Satish Uke is not arbitrarily arrested again by the police and provide sufficient and proper protection to Satish Uke from further harm and injury, and to ensure his safety and security and that of his family and colleagues;

Ensure provision of reparation, compensation, apology to the human rights defender Satish Uke for the psychological suffering he is undergoing because of the arbitrary arrest and criminalisation, and provide a reassurance of not engaging in such acts against HRDs;

Put an end to all acts of attack and harassment and attempt on the life of all human rights defenders and lawyer activists like Satish Uke and to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances;

Take 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, that the State Government of Maharashtra in collaboration with the NHRC Focal Point on HRDs and the SHRC Maharashtra 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;

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 the State of Maharashtra.

Looking forward to your immediate action in this regard,
Yours sincerely,



(Henri Tiphagne)
National Working Secretary