



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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April 22, 2019

To

Mr. Khaleel Ahmed

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

Sub: HRD Alert - India – Urgent Appeal for action against the continuous illegal intimidation and harassment of human rights defender Advocate Wahid Shaikh by Mumbai police - Regarding.

Dear Sir,

Greetings from Human Rights Defenders Alert - India!

Human Rights Defenders 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 continuous illegal intimidation and harassment of human rights defender and Advocate Wahid Shaikh by the Mumbai Police.

Status of Human Rights Defender:

Wahid Shaikh, a resident of Ghatkopar, Mumbai has been teaching at Anjuman-I-Islam Abdus Sattar Shuiab School in Mumbai since 1999. Between the year 2006 and 2015, for 9 years, he was incarcerated as an undertrial after being implicated in the 7/11 Mumbai Train Blast Case of 2006. The Special Court Judge in 2015 acquitted him of all charges. After his release, Shaikh published a book titled '*Begunah Qaidi*' (Innocent Prisoner) which he penned during his time in prison. He also became the founding member of a collective called 'Innocence Network', which aims to support and rehabilitate those who are wrongly prosecuted, and advocated for reforms in criminal justice system, in line with international laws and standards of human rights.

For the past two years, Shaikh has been imparting human rights training at public programs at several places in India. He also studied law and has been giving free legal aid and advice to those in need.

Source of Information on the Incident:

- Regional Coordinator for Western zone for HRDA
- Communication from HRD Advocate Wahid Shaikh

Perpetrators:

1. Mr. Awhad, District Crime Branch – Criminal Investigation Division (DCB-CID) Unit VII, Ghatkopar Branch, Mumbai
2. Mr. Shivaji, Hawaldar, DCB-CID Unit VII, Ghatkopar Branch, Mumbai
3. Mr. Vilas More, Hawaldar, DCB-CID Unit VII, Ghatkopar Branch, Mumbai

Date of Incident:

February 23, 2019.

Details of the Incident:

On 23rd February 2019, at around 3.30 pm, two policemen namely Awhad, Sub Inspector and Mr. Shivaji, Hawaldar of (DCB-CID) Unit VII, Ghatkopar Branch, Mumbai came to Advocate Wahid Shaikh's house. They questioned Shaikh about his name, mobile phone number, work, place of work, activities and other things. They commented that he has resigned from his teaching job and is indulging in other activities, to which Shaikh replied that his teaching job is still continuing. They also demanded his views on recent extension of ban on the organization - Student Islamic Movement of India (SIMI) to which he stated that he does not have any connections with that organization. They further questioned him on irrelevant issues, apart from asking him about his future plans, now that he had obtained a law degree. The policemen did not show him any legal documents to show why they were visiting and questioning him

Mr. Shaikh gave a written complaint to the Police Commissioner of Mumbai on the same date, describing the incidents in detail. He has requested the Police Commissioner to direct the policemen to refrain from such informal yet intimidating visits and to take stern action against such policemen who have been causing harassment without any reason. However, Adv. Shaikh has received no response from the Police Commissioner as yet.

The incident of 23rd February 2019 is not the only occasion of harassment and intimidation of Adv Shaikh. Around three weeks prior to this, another policeman Havaladar Vilas More of the same police unit visited his house on flimsy and absurd reason of asking him for a copy of the judgement related to 7/11 Mumbai Train Blast Case. In January 2017 also, policemen were frequenting his house and that of neighbours to question him on his activities and whereabouts.

Mr. Shaikh's family has already suffered irreparable losses due to his false implication in a terror case and his nine long years of wrongful incarceration. As a result of these illegal visits and questioning by policemen, Mr. Shaikh and his entire family are living in the fear of another wrongful incarceration and prosecution. It has triggered undue harassment, stress and pain to the family members including his old and bed ridden mother and minor children.

It is pointed out to the commission that because of wrongful implications, Advocate Shaikh has already suffered mental and physical agony in the past and further police intimidation and harassment of Advocate Shaikh amounts to abuse of power by the police amounting to criminal intimidation, an offence under section 503 of the Indian Penal Code (IPC) and infringement of right to life encompassing right to live with dignity, thereby infringing fundamental rights of Advocate Shaikh.

Further, The Declaration on Human Rights Defenders, adopted in 1998 by the UN General Assembly, states that governments have the duty to "take all necessary measures to ensure the protection of human rights defenders by the competent authorities against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary actions" as a consequence of their efforts to promote human rights. Therefore, the government is bound by its international legal obligations to ensure that all activists and human rights defenders are provided with security against violence from law enforcement, so that they may enjoy their constitutional right to due process, life and liberty under Article 21, and the right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India.

Appeal:

We, therefore urge you to immediately take the necessary steps and:

- Order an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incidents, and demand immediate suspension of involved policemen.
- Based on the independent investigation, order for legal proceedings against involved policemen for misusing their powers and harassing and intimidating Mr. Shaikh.
- Ensure provision of reparation, compensation and apology to Mr. Shaikh and his family and guarantee in all circumstances the physical and psychological integrity of the defender and his family from further reprisals from the perpetrators and using all provisions of law to ensure that they are not harassed or intimidated in future.

Looking forward to your immediate action in this regard,

Yours sincerely,
sd/-

Henri Tiphagne
National Working Secretary