



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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October 29, 2021

To
Mr. C.S Mawri,
National Focal Point - Human Rights Defenders & Assistant 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 – Bihar: Inaction and apathy of police and administrative officials regarding the protection and subsequent murder of RTI activist Mr. Vipin Agarwal in Motihari.

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 in to express our concern over the murder of RTI activist Mr. Vipin Agarwal in Motihari and inaction by police and administrative officials regarding action against those accused of attacking him in the past, who are also allegedly involved in his murder.

About the Human Rights Defenders:

Mr. Vipin Agarwal was a human rights defender based in Harsiddhi block of Motihari district in Bihar. Mr. Agarwal had filed several RTI applications in the past two decades and was actively involved in struggles against corruption in disbursement of government entitlements and subsidies, discrepancies in the BPL list, and land encroachment. He had also filed petitions in the Patna High Court and the Bihar Lokayukta leading to the sealing of petrol pumps, and evictions on encroached land.

Source of Information:

- Communication with the HRD's family
- Communication with HRDs in the region
- Police records
- Media reports

The Perpetrators:

- Mr. Navinchandra Jha, Superintendent of Police, Motihari
- Mr. Raman Kumar, former (2015) District Collector, Motihari

- Mr. Shailendra, former Station House Officer, Harsiddhi Police Station
- Mr. Ramdeo Pd, Sub Inspector attached to Harsiddhi Police Station and Investigating Officer in FIR no. 50/2020
- Mr. Pramod, current Station House Officer, Harsiddhi Police Station
- Other police officials of Harsiddhi Police Station

Date of Incident:

September 24, 2021

Place of Incident:

Harsiddhi, Motihari district, Bihar

Background of the incident:

In 2013, Mr. Vipin Agarwal had filed a Public Interest Litigation (PIL) in the Patna High Court (CWJC 2834/13) regarding land encroachment in Harsiddhi market. According to the petition, around 8 acres of land in the market (under Khata no 1, Khesra no 245, 411) worth thousands of crores was encroached upon by anti-social elements and the land mafia, and houses were constructed in the area.

The HRD received several death threats following this PIL and appealed to various police and administrative officials asking for police protection. In 2015, he met the then District Collector Mr. Raman Kumar and appealed that he be provided with police protection, and Mr. Kumar assured him of support. But no protection was provided to the HRD.

On February 16, 2020, around noon, following court proceedings (MJC 2826/2019), the administration demolished seven houses in the encroached land with bulldozers in the presence of senior administrative and police officials. On the same day, at 4 pm, around 100 people including several encroachers attacked his house. While the HRD was not at home, they ransacked the house, misbehaved with his wife, and assaulted his family members.

At 10:05 pm, on February 16, 2020, Mr. Agarwal lodged a written complaint in the Harsiddhi Police Station regarding the incident. He named Mr. Uday Singh, Mr. Ajay Singh, Mr. Raju Dube, their wives and 100 others in the complaint, and stated they had attacked his house with the intent of murdering him. Harsiddhi Police Station registered an FIR (50/2020) based on his complaint and the accused were charged under 144, 147, 148, 149, 341, 323, 354B, 427, 440, 452, 379, 307 of the Indian Penal Code, and Station House Officer Mr. Shailendra designated Sub Inspector Mr. Ramdeo Pd. as the Investigating Officer in the case.

Despite the serious nature of Mr. Agarwal's complaints, no action was taken against any of the named accused for over a year and a half. Several appeals that the HRD made in writing during this period including with the SHO – Harsiddhi Police Station, the Sub Divisional Police Officer – Areraj and the Superintendent of Police – Motihari asking for police protection were not acted upon; his wife's appeals in person before the SP in his Janata Darbar to this effect were also ignored and Mr. Agarwal was not provided with any police protection.

Details of the Incident:

On September 24, 2021, at around 10.30 AM, Mr. Agarwal was returning from the block development office on his motorcycle, when two motorcycle-borne assailants shot four bullets at him and fled the spot. The HRD was profusely bleeding and was taken to the Harsiddhi District Health Centre by onlookers, who also informed the police about the incident. He regained consciousness after he received first aid, and photos taken by onlookers at the spot showed that the Harsiddhi PS SHO Mr. Pramod was with him.

SHO Mr. Pramod then accompanied the injured Mr. Agarwal to the Harsiddhi District Hospital for better treatment, where he was declared dead upon arrival. Despite the HRD's house being located barely 500 metres from the Harsiddhi Police Station, and despite his residence falling on the way from the Harsiddhi District Health Centre to the district hospital, police did not inform his family members about him being shot or shifted.

On September 24, 2021, at 11:45 p.m., Mr. Agarwal's father Mr. Vijay Agarwal filed a complaint in the Harsiddhi Police Station alleging that his son was killed as part of a conspiracy hatched by the encroachers and anti-social elements and asked for strict punishment against the guilty. On September 25, 2021, an FIR 386/2021 was registered in the Harsiddhi Police Station on the basis of his complaint, and the accused were charged under 302, 120B and 34 of the Indian Penal Code.

Subsequently, Mr. Navinchandra Jha, Superintendent of Police, Motihari gave a statement to media persons stating that an investigation team led by Sub Divisional Police Officer Mr. Abhinav Dheiman and including inspectors from the technical cell and other sub inspectors was constituted to investigate the case, and they had identified eight persons as being involved in the attack.

Thereafter, media reports named all the accused and one of the encroachers – Mr. Uday Singh, who was accused of attacking the HRD's house in 2020 – was identified as the shooter and arrested. Whereas, several other accused named by police sources, who were accused of hatching the plot to kill the HRD managed to flee even as they remained active on social media.

We believe that this is a shocking case of wilful negligence by police and administrative officials towards a well-known RTI activist asking for police protection in view of death threats he was facing. Despite his repeated letters and pleas regarding threats to his life because of his work no protection was given to him by the police or district administration.

The HRD had been consistently raising the issue of encroachment on government land and had pursued the matter in the High Court, resulting in the demolition of encroachments upon court orders, whereas police dithered from taking action against to take against those accused of attacking his house earlier, who were also involved in shooting him.

Further, those identified as being involved in planning the murder of the HRD were also allowed to escape and were not tracked down and arrested despite them being active on social media. This goes against some of the fundamental duties of the state with regards to the protection of human rights defenders.

The Declaration on human rights defenders adopted in 1998 by the UN general Assembly was Clause 2 and 3 of Article 12 of the declaration state: *"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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms."*

RTI activists have been among the most vulnerable and targeted human rights defenders in India. According to media reports, during the lockdown (since March 2020) as many as 12 activists have either been killed or assaulted. It is a matter of concern that individuals working in public interest have to face fatal danger to their self without any protection or help from the police or the district administration.

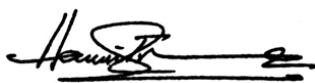
Appeal:

We thus request the Hon'ble Commission to urgently:

- Direct the Director General of Police of Bihar to ensure that the accused are arrested immediately.
- Direct the Director General of Police of Bihar to initiate an independent inquiry into police inaction, (not involving the local police in Motihari) for not providing Mr. Vipin Agarwal with police protection despite several pleas in writing; and concerning the delay in arrest of the accused and submit the report to NHRC within two weeks.
- Direct the Chief Secretary of Bihar to investigate the role of the administration in ignoring pleas by the Mr. Vipin Agarwal for police protection and action against land encroachers and submit a report to the NHRC within two weeks.
- Direct the Chief Secretary of Bihar to provide Rs. 10 lakhs compensation to the family of RTI activist Mr. Vipin Agarwal.
- Direct the Director General of Police of Bihar to ensure complete physical safety of the family and give it in writing to the NHRC within two weeks.

Looking forward to your immediate action in this regard.

Yours sincerely,



Henri Tiphagne
National Working Secretary