



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

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To
Mr. CS 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 – Uttar Pradesh: Abuse, repeated physical assault, illegal arrest, physical torture and fabricated charges against disabled HRD Mr. Kaleem Ansari and his minor daughter by U.P police

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 deep shock over the horrific incident of extreme police brutality in the form of repeated physical assault, torture, illegal arrest and fabricated charges on disabled HRD Mr. Kaleem Ansari and his minor daughter Ms Amina Khatoun, by the police officials of Robertsganj police station in Sonbhadra, Uttar Pradesh.

About the Human Rights Defenders:

- Mr. Kaleem Ansari (51) is a disabled person and social activist. He has been working for education, social justice and tribal rights for 30 years. He and his wife also run an institute where underprivileged children are given free education. Mr. Ansari is paralyzed and uses a wheel chair with an attendant for mobility.
- Ms. Amina Khatoun (16) is the minor daughter of Mr. Kaleem Ansari.

Source of the Information:

- Communication with HRD
- Communication with other HRDs in the region
- Communication with the HRDA North Regional Coordinator

The Perpetrators:

- Sub Inspector Mr. Yogendra Singh, Chowki In-Charge, Robertsganj Police Station, Sonbhadra

- Station House Officer (SHO), Robertsganj Police Station, Sonbhadra
- Circle Officer (CO), Robertsganj Police Station, Sonbhadra
- Sub Divisional Magistrate (SDM), Tehsil Robertsganj, Sonbhadra
- Other Police Personnel of Robertsganj police station, Sonbhadra

Date of Incident:

June 05, 2021

Place of Incident:

Robertsganj, Sonbhadra, Uttar Pradesh

Background of the Incident:

Mr. Ansari had been working for Dalit and tribal rights in the locality for 30 odd years. He has also been an active participant in anti-CAA citizen protests in Sonbhadra. In 2019, during the anti-CAA protests, his house was ransacked by the police and extreme pressure was put on him not to take part in the peaceful citizen protests. In 2020, he along with 5 other HRDs, was picked up by the local police and tortured in the police station all night. The draconian Gunda Act was imposed on him by the police which he is fighting against in the court of law.

Details of the Incident:

On June 05, 2021 around noon, some social workers including Mr. Kaleem Ansari submitted a peaceful memorandum against three farms law to the Sub Divisional Magistrate of Robertsganj. Following this, Mr. Ansari was going for his physio-therapy on his wheelchair with his daughter as an attendant. As he was about 200 metres away from the physiotherapy clinic, Mr. Yogendra Singh, in-charge police chowki Robertsganj police station, along with a few other policemen in uniform, stopped them near the municipality office and started slapping and assaulting Mr. Ansari.

When his daughter tried to stop the policeman and asked him the reason for beating her father; Mr. Singh abused the HRD with slurs saying *“langda bahut haraami hai”* (the lame man is a Bas****); *“bahut shor machata hai”* (he makes a lot of noise); *“Muslims-Dalits ke Hamdard bantey ho”* (he is a sympathiser of Dalits and Muslims) etc.

As Mr. Ansari's daughter tried to stop the policemen, Mr. Singh he also slapped her, abused her verbally, grabbed her hair and pushed her down on the street. He forcibly climbed on the child's body and snatched her mobile. After snatching their mobile the police left, leaving the disabled father and his minor daughter on the street.

Beaten and shocked, Mr. Ansari and his daughter got up and went to the Ashirwad Physiotherapy Centre which was about 200 metres away and Mr. Ansari's regular physiotherapy clinic.

Around 2 pm, as Mr. Ansari was being given treatment in the physio-therapy clinic, several police jeeps stopped outside with 30-35 policemen along with circle officer, inspector and chowki in-charge. The policemen first turned off the CCTV cameras when they entered the clinic. Inside the clinic, Mr. Singh abused and slapped the minor daughter, at which Mr. Ansari protested and then 3-4 policewomen came inside and the SHO told them *“maro isey”* (beat her) to assault the child at which the policewomen

slapped the child repeatedly. After that the policemen started punching and slapping Mr. Ansari and took both the father-daughter duo forcibly to Robertsganj police station in a police jeep without any due procedure or paperwork.

In the jeep, they were abused further, and after reaching Robertsganj police station, they were taken to two separate rooms. In one room Mr. Ansari was beaten with kicks, punches, sticks and belts by 3-4 policemen including SHO and Mr. Singh. In the other room his daughter was also beaten. They were also given casteist, religious and lewd abuses by the policemen.

Around 4 pm, Ms. Khatoon was released by the police; but between 4:30 pm to 6 pm Mr. Ansari was taken to the hospital for a cursory medical check-up, then taken to the magistrate and sent to Sonbhadra Central jail around 6 pm. The police did not inform his family or relatives nor did they give an arrest memo or FIR.

On June 05, 2021, an F.I.R (274/21) was filed by Mr. Singh against Mr. Ansari, under IPC sections **332**-Voluntarily causing hurt to deter public servant from his duty, **353**-Assault or criminal force to deter public servant from discharge of his duty, **504**-Intentional insult with intent to provoke breach of the peace, **506**-Punishment for criminal intimidation, **427**-Mischief causing damage to the amount of fifty rupees and **336**-Act endangering life or personal safety of others.

On June 09, 2021, Mr. Ansari was released from the prison. On September 22, 2021, Mr. Ansari, his wife and his minor daughter was sent a notice by the district administration under IPC 107/16 to give reason as to why they should not be made to submit a bond of 1 lakh each for provoking breach of peace. Mr. Ansari objected to the notice and wrote a rejoinder to it. On October 15, 16, 18, 2021, Mr. Ansari was again house arrested in his home by the local police, as the farmers agitation peaked.

We are shocked and horrified at the brutal torture by the Sonbhadra police against a disabled HRD and his minor girl-child. The abusive behaviour, physical assaults and custodial torture the duo had to undergo repeatedly is a horrific reminder of the abuse of power by the Uttar Pradesh Police.

It is our belief that Mr. Ansari was assaulted, tortured, illegally arrested and framed in fabricated cases as reprisal for his social work as a human rights defender. His custodial torture, assault, illegal arrest is a gross abuse of his fundamental right to life and personal liberty granted by Article 21 of the Indian Constitution as well as a complete violation of his human rights as guaranteed by national and international laws.

The right to exercise freedom of speech and expression is enshrined under Article 19(a) and the right to assemble peacefully under Article 19(b) of the Indian Constitution. The Human Rights Council resolution 15/21 adopted in October 2010 reaffirms that everyone has the right to freedom of peaceful assembly free of restrictions that is subject only to the limitations permitted by international law, in particular international human rights law.

It is well known that torture is a serious violation of human rights law in national and international law. The Hon'ble Commission itself asked the State to criminalise torture.

D.K.Basu vs. State of West Bengal, the Supreme Court of India called torture “one of the worst crimes in a civilised society governed by the Rule of Law”.

In 1981, the Supreme Court of India, in Kishore Singh V. State of Rajasthan (AIR 1981 SC 625) said “nothing is more cowardly and unconscionable than a person in police custody being beaten up and nothing inflicts deeper wound on our constitutional culture than a state official running berserk regardless of human rights”.

Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights both provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Whereas Article 2 of the United Nations Convention against Torture prohibits torture, and requires state parties to take effective measures to prevent it in any territory under their jurisdiction.

Sections 330 and 331 of the Indian Penal Code criminalise custodial torture, and grievous hurt caused to the accused for extorting evidence. It has further recommended the suspension of any official, whenever there are reasonable grounds to believe that the official has committed acts of torture or ill-treatment, and remain so throughout the investigation, particularly if there is any risk that the official might otherwise be in a position to repeat the alleged act or interfere with the investigation. It also recommends that persons suspected of having committed torture or ill-treatment should be prosecuted by judicial or prosecutorial authorities and, if found guilty, should be punished with appropriate sentences that are commensurate with the gravity of their acts and victims should be afforded appropriate redress.

In illegally picking Mr. Ansari and his daughter without any arrest memo or warrant, without any information to his family or lawyer, the police violated multiple sections (Guidelines 2, 3, 5, 7, and 10) of the DK Basu Guidelines of arrest procedures. Furthermore a minor girl-child was abused, physically assaulted and tortured repeatedly-on the road, in the police station, in a medical clinic, in gross violations of the national and international child rights laws.

The Juvenile Justice (Care and Protection of Children) Act, 2000 criminalises acts that may cause a child mental or physical suffering. Article 37(a) of UN CRC requires States Parties to ensure that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”. Further, India is a State Party to the Convention on the Rights of the Child. In 2006, the Committee on the Rights of the Child explained this obligation further when it reiterated, in General Comment No. 8, “the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”.

According to Mr. Ansari’s wife, her husband is paralyzed and is unable to even eat without help, is falsely accused of breaking a police car and abusing government work. Repeated assaults on a disabled HRD and his illegal arrest are a violation of the Rights of Persons with Disabilities Act, 2016 which provides for penalties for offences committed against persons with disabilities.

The UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, states 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". (Article 12.2)

Appeal:

HRDA urges the Hon'ble Commission to acknowledge this case of physical assault, illegal arrest, custodial torture and fake charges on a disabled HRD and his minor girl child and take urgent action against the policemen who assaulted, illegally arrested and tortured Mr. Ansari and his daughter. We thus urge the hon'ble Commission members to:

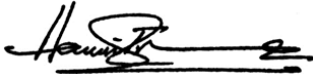
- Direct the Director General of Police of Uttar Pradesh to produce all relevant documents pertaining to the arrest of Mr. Kaleem Ansari for an independent examination by the NHRC –
 - arrest memo as required under Section 41B of the CrPC, including name and designation of the police officer who prepared the arrest memo.
 - Inspection Memo prepared at the time of arrest as required under the guidelines laid down by the Supreme Court in DK Basu vs State of West Bengal [1997 (1) SCC 416], as well as the name and designation of police officer who prepared the said Inspection Memo.
 - Medico-legal certificate prepared under Section 53 of the CrPC, as well as report of the medical examination conducted under Section 54 of CrPC.
 - vehicle records and registers of the Robertsganj Police station on June 05, 2021.
 - CCTV footage from the Robertsganj police station on June 05, 2021.
 - General Diaries, FIR and arrest registers of the Robertsganj police station June 05, 2021.
- Based on the above documents, direct Hon'ble Commission's investigation wing to examine –
 - compliance with all the mandatory procedures on arrest and detention laid down in Sections 41 of the CrPC, and Sections 50, 50A, 51, 54, 55A, 56, 57, and 60A of the Code
 - compliance with the NHRC Guidelines on Arrest
 - Compliance with the JJB Act 2000 and other relevant laws
 - Compliance with the Persons with Disabilities Act, 2016
 - Compliance with the national and international anti-torture laws
 - Whether the District Legal Services Authority was informed by the Robertsganj Station of the arrest of Mr. Kaleem Ansari.
- Independently record the statements of Mr. Kaleem Ansari, and his daughter Ms. Amina Khatoon to investigate the allegations of assault, abuse and torture by the police.
- Direct the Director General of Police of Uttar Pradesh to take necessary disciplinary actions and institute legal proceedings under relevant IPC sections

against all police officials involved in the assault, torture, misuse of powers and violation of arrest guidelines in this case of abuse of the human rights of a disabled activist and minor child.

- Direct the Chief Secretary of Uttar Pradesh to initiate an inquiry and take punitive action against the SDM of Robertsganj involved in fabricated charges against a disabled HRD and submit the report to the NHRC within two weeks.
- Direct the Chief Secretary of Uttar Pradesh to provide a compensation of 10 lakhs to HRD Mr. Kaleem Ansari and his daughter for physical and mental torture, assault, illegal arrest by the police.
- Direct the Director General of Police of Uttar Pradesh to ensure complete physical security of Mr. Kaleem Ansari and his family, from further harassment, torture and brutality by the local police 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