



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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May 17, 2022

To
Mr. Indrajeet Kumar,
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: Misuse of law by Varanasi police and district administration asking HRD Mr. Aabid Shekh for 1 lakh in surety bond.

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 surety notice sent by the UP police to the HRD Mr. Aabid Shekh, accusing him of potential breach of peace and asking him for Rs. one lakh in a surety bond. We believe this is a misuse of law and harassment of HRDs by the UP police and administration, to curtail the Constitutional rights and silence the voice of a peaceful protestor like Mr. Aabid Shekh.

Source of Information:

- Communication with the HRDA North Regional Coordinator
- Communication with local HRDs in the region

Date of Incident:

April 22, 2022

Place of Incident:

Varanasi, Uttar Pradesh

The Perpetrators:

- Mr. Jagdeesh Ram, Sub-Inspector, Chetganj police station, Varanasi
- Special Executive Magistrate, Varanasi

About the Human Rights Defender:

Mr. Aabid Shekh is a human rights defender from Varanasi, Uttar Pradesh. He has been a participant in many peaceful citizenship protests in the past including anti CAA protests and raised his voice on public issues.

Details of the incident:

On April 25, 2022, around 9 am, two policemen came to Mr. Aabid Shekh's father's shop at Tiliya Bagh and gave his father a notice, addressed to Mr. Aabid Shekh. The notice dated April 22, 2022, was issued by the Special Executive Magistrates of Varanasi under section 111 of the Code of Criminal Procedure. The notice demanded a surety of Rs. one lakh or property of same amount from Mr. Aabid Shekh and cited sections 107- *Security for keeping the peace in other cases* and 116- *Inquiry as to truth of information* of Code of Criminal Procedure.

The notice stated that an investigation report prepared by Mr. Jagdeesh Ram, Sub-Inspector, Chetganj police station, claimed that there was a possibility the HRD will be involved in activities that might disturb peace during the Vice President's visit in Varanasi. It asked the HRD to appear before their court on May 6, 2022 and explain why he should not pay the surety bond.

On April 14, 2022 at 3.45 pm Mr. Jagdeesh Ram, Sub-Inspector, Chetganj police station, Varanasi called Mr. Aabid Shekh and asked where he lived. The HRD gave him the address of his father's shop. The notice was hence sent to the shop. However, the HRD refused to furnish the surety bond because he says he has not done anything illegal.

We believe this notice is a way to stifle dissent and freedom of speech and expression of Mr. Shekh as an HRD. He is being targeted for speaking up on issues of human rights and taking part in peaceful citizenship protests. Mr. Aabid Shaikh has no past criminal record and there is no valid reason for the police and district administration to ask him to provide a surety bond for breach of peace. The main purpose of the notice is to harass and silence the voices of law abiding HRDs like Mr. Aabid Shaikh, who exercise their constitutionally granted right to peaceful protest. However, despite being a innocent citizen Mr. Shekh is at risk of arrest for no reason of his making.

Article 19 (1)(b) of the Indian Constitution guarantees to all citizens of India rights to *freedom of speech and to assemble peaceably and without arms*. This right includes the rights to protest and to take out processions.

The Declaration on Human Rights Defenders, adopted in 1998 by the UN General Assembly states that governments are under a 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" because of their efforts to promote human rights.

The Indian government is bound by its international legal obligations to ensure that all activists and human rights defenders are provided with security against harassment or intimidation 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 and peacefully assemble under Articles 19(1)(a) and (b) of the Constitution of India


Appeal:

The Hon'ble Commission should urgently:

- Direct the DGP of Uttar Pradesh to initiate an independent, impartial and transparent inquiry into the reasons for the investigation report against Mr. Aabid Sheikh for a potential breach of peace by the Mr. Jagdeesh Ram, Sub-Inspector, Chetganj police station, Varanasi and submit the report to the NHRC within 2 weeks.
- Depending on the result of the investigation, order the DGP of Uttar Pradesh to initiate strict action against the police official who flouted the Constitution by insisting Mr. Sheikh filing bonds worth lakhs of rupees, thus trying to put pressure on him to not protest against the government.
- Direct the DGP of Uttar Pradesh to ensure that Mr. Aabid Sheikh is not harassed or arrested in the future.
- Direct the Sub Divisional Magistrate Varanasi to cancel the notice asking Mr. Sheikh to submit a surety bond which is against his Constitutional Right.
- Put an end to all acts of harassment and intimidation against all HRDs in Uttar Pradesh to ensure that in all circumstances they carry out their activities as defenders of human rights 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
National Working Secretary