



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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September 28, 2022

To,
Mr. Indrajeet Kumar,
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 - Urgent Appeal for Action – Delhi- Illegal detention and arrest of student activist Shoaib Ahmad by Delhi police--regarding

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a forum of Human Rights Defenders for human rights defenders. It endeavors to initiate actions on behalf of human rights defenders under threat or with security concerns.

We are writing to express our grave concern over the illegal detention and arrest of student activist Shoaib Ahmad from his residence in Shaheen bagh in Delhi without any compliance with the NHRC guidelines or CrPC's mandatory procedures on arrest and detention being followed by the Delhi police. The HRD's current whereabouts remain unknown.

Source of Information:

- Communication with the HRDA North Regional Coordinator
- Communication with other HRDs and family
- Media Reports

Date of Incident:

September 27, 2022

Place of Incident:

HRD's home in Shaheen Bagh, Delhi

The Perpetrators:

Personnel of the Delhi police and other paramilitary forces

About the Human Rights Defender:

Shoaib Ahmad is a student at Delhi University, pursuing his Bachelor of Arts degree. He is also a volunteer with the National Confederation of Human Rights Organizations (NCHRO)-- a confederacy of human rights organisations which work for the rights of traditionally exploited and oppressed marginalized social segments of tribals, Dalits, minorities, backward castes, women, children, and victims of state violations. He was active in attending solidarity programs and peaceful protests, and had no prior charges against him.

Details of the Incident:

On September 27, 2022, at around 3:30 am 20-25 policemen of Delhi police and some special forces (some in uniform and without uniform) raided Mr. Ahmad's family home at Shaheen Bagh without showing any official order or memo. They checked the house and took Mr. Ahmad's phone, his laptop, his CPU and some books and reports. They also took his father's basic phone. When his parents asked the policemen where they were taking their son? They were told that he was just being taken for questioning. No detention memo or process of arrest was followed. Since then, his family or his lawyer has not heard from their son or known about Mr. Shoaib Ahmad's whereabouts.

We believe that these amount to a gross violation of multiple guidelines of DK Basu guidelines of the arrest. We further contend that he has been forcibly picked up without any arrest warrant or memo and we fear for his life and liberty.

In essence, the actions of the police amount to abduction as no formal arrest was made and yet the HRD is missing for more than 24 hours. Further, the concerned officials are also liable for prosecution under Sections 339 and 341 (wrongful restraint), 340 and 342 (wrongful confinement).

Article 22 of the Indian Constitution states that a person cannot be denied the right to a lawyer. It states, "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice." Section 41D of the Code of Criminal Procedure (CrPC) states the same.

Section 50A, CrPC states that a relative or friend should be informed about the arrest and the place of detention. It is the duty of the police to inform the arrested person of this right, and to inform the relative or friend about the arrest. This information should be entered in a designated register at the police station.

Appeal:

We appeal to the Hon'ble Commission to urgently act and:

- Call the Commissioner of Police of Delhi and other senior police officials and ask them to release Mr. Shoaib Ahmad from their undisclosed location and give it in writing to the NHRC.
 - Issue notice to the Commissioner of Police of Delhi to produce within 48 hours all relevant documents pertaining to the abduction of Mr. Shoaib Ahmad 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.
 - Medico-legal certificate prepared under Section 53 of the CrPC, as well as report of the medical examination conducted under Section 54 of CrPC
 - 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
 - Names, ranks and designations of every police personnel to be identified and put on record
 - Duty records and registers of all arresting/detaining officers and Station In-Charge on duty on the relevant dates
 - General Diaries, FIR and arrest registers of the concerned police station
 - Establish the full chain of custody of Mr. Shoaib Ahmad and submit the same in writing which must include every location, police station, detailed vehicle and personnel logs, and any other relevant noting
 - CCTV footage from the concerned police stations confirming where Mr. Shoaib Ahmad was taken to and detained.
- Examine compliance with all the mandatory procedures on arrest and detention laid down in Sections 41 of the CrPC, particularly with Sections 41A, 41B and 41D, Section 46(4) of CrPc, and Sections 50, 50A, 51, 54, 55A, 56, 57, and 60A of the Code were followed by the police.
 - Examine compliance with the NHRC Guidelines on Arrest.
 - Examine whether the District Legal Services Authority was informed by the police station of the arrest and detention.

Looking forward to your immediate action in this regard,

Yours sincerely,



Henri Tiphagne
National Working Secretary