



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/UA/West/MP/04/09/2023

September 27, 2023

To,

Mr. Indrajeet Kumar,
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 – Madhya Pradesh: Fabricated charges, Illegal arrest and brutal custodial torture of journalist in Chhatarpur by Madhya Pradesh police.

Greetings from Human Rights Defenders Alert!

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 journalist Mr. Mintu Dubey who was illegally arrested on fabricated charges and tortured by Madhya Pradesh police.

Source of Information:

- Communication with the HRDA North Regional Coordinator
- Communication with HRD
- Media Reports

Date of Incident:

August 08, 2023

Place of Incident:

Civil Lines Police Station, Chhatarpur, Madhya Pradesh

The Perpetrators:

- Police personnel of Chhatarpur, Madhya Pradesh
- Mr. Kamlesh Sahu, Station House officer, Civil Lines Police Station, Chhatarpur

About the Human Rights Defender:

Mr. Mintu Dubey is a freelance journalist associated with news portal New Sadhna News and Ind24. Mr. Mintu Dubey has been working in journalism for about 13 years, continuously raising questions regarding the functioning of the administration and police, and local issues of Chhatarpur.

Background of the Incident:

In April 2023 Mintu Dubey's report was published in local daily Shubh News, which alleged that Civil Lines police had blackmailed a trader and a complaint was handed over to senior police officers.

On August 8, 2023, a robbery took place in Chhatarpur. Mr. Ramesh Chand Gupta, a shop owner was robbed of Rs 3,100 by two motorcyclists. The robbery happened while Mr. Gupta was returning home after midnight via cycle. In this matter Chhatarpur police arrested two youth. Mr. Mintu Dubey was also made an accused by police. The journalist's sister said that her brother has been implicated in a fake case and the police misbehaved with him and urinated on his head in the police station.

Details of the incident:

On August 08, 2023, at around 10:30pm Mr. Mintu Dubey was having dinner at a Dhaba on Jhansi Khajuraho Highway. At the same time 5 to 6 policemen reached with Bolero Jeep at Dhaba and forcefully took him away and brought him to the Civil Line police station, Chhatarpur. Some of these policemen were in uniform and some were without uniform. Where he was locked in a room and was beaten a lot with kicks, punches, slaps, fattas and peed on his head. The next day the police got him medically examined and sent him to Chhatarpur jail in a robbery case. On August 14, 2023, after 36 days Mr. Mintu Dubey got the bail.

On August 08, 2023, at 03:54 am an FIR was registered under section-**394- Voluntarily causing hurt in committing robbery** of Indian Penal Code. The FIR was lodged against unknown by Mr. Ramesh Chand Gupta (owner of a shop of Chhatarpur).

According to the complaint, two men riding a motorcycle allegedly robbed Gupta of Rs 3,100 when he was going home on a bicycle after midnight. He was beaten up and then his bag was snatched. Two other people in the truck saw what had happened and tried to catch the attackers but failed.

Ms. Rekha w/o Mr. Gupta said that her husband did not recognise the attackers. We do not know who those people were. The police arrested two people, but they have not called us to identify them, she also said that My husband is partially impaired, so he did not hear half the things the police told him while filing the FIR.

On August 10, 2023, Ms. Sunita Tiwari (sister of Mintu Dubey) met Mr. Mintu Dubey in jail. Ms. Sunita said that the inspector hit Mintu on the face with shoes and urinated on his head. Ms. Sunita said that her brother told her in jail that policeman Mr. Kamlesh Sahu (SHO) had threatened him earlier also. At present his brother is very scared.

On August 20, 2023, Ms. Sunita Tiwari, and others journalist of Chhatarpur met Superintendent of Police Chhatarpur and gave him a letter. In this letter she mentioned about his brother's arresting that how he was taken away by the police at 10 o'clock in the night while he was eating food at a Dhaba. Mr. Mintu Dubey said that he has been tortured by police personnel of civil lines police station and Mr. Kamlesh Sahu, station house officer, Civil Lines police station. He was assaulted by Inspector Mr. Kamlesh Sahu with punches to his face, kicked with and urinated on the head.

He also requested the police repeatedly to inform his colleague or family, but police did not inform his family or anyone regarding his arrest. In the morning, one of his acquaintances informed his family and office. Mr. Mintu also told that he was neither given anything to eat at night nor anything during the day (next day). He was not even given water or tea. Also, the police did not give any arrest warrant or arrest memo.

HRDA is concerned that Mr. Dubey has faced fabricated charges, illegal arrest and torture in reprisal for his work as a journalist. He was arrested arbitrarily without any arrest memo, without a witness, his family was not informed, he was not offered legal

aid. More horrifically he has to undergo violent torture in police custody. These are multiple violations of the DK Basu guidelines of arrest and detention.

In a robbery case the complainant does not identify his assailants. The police have not conducted any identification parade. And the journalist's name is not in the FIR. All of which point to serious lapses in police investigation and a possible reprisal due to his reporting. It is also a gross abuse of Article 19(b) and Article 21 of the Indian Constitution.

Custodial torture is a crime in Indian and international law. The Hon'ble Supreme Court of India has called torture "one of the worst crimes in a civilised society governed by the rule of law." 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. 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.

A free media is an extremely important fourth pillar of the Indian democracy. Our Constitution gives journalists the right to exercise freedom of speech and expression under Article 19(a) of the Indian Constitution, which is crucial to the work of HRDs, including journalists. The right to freedom of expression encompasses three different aspects: 1) the right to hold opinions without interference; 2) the right of access to information; and 3) the right to impart information and ideas of all kinds. A free press and active civil society are essential to ensure the public's right to know, so that governments and institutions can be held accountable. The protection of journalists and ending impunity for attacks against them, is a priority for safeguarding freedom of expression. States are under an obligation to prevent, protect against, and prosecute attacks against journalists.

Appeal:

The Hon'ble Commission should urgently:

- Direct the Director General of Police of Madhya Pradesh to initiate an independent inquiry into the abduction, illegal arrest, and custodial torture of journalist Mr. Mintu Dubey, and submit a report to the NHRC within two weeks.

- Depending on the result of the inquiry, direct the Director General of Police of Madhya Pradesh to take stern action against errant police officials who were responsible for abduction, illegal arrest and torture of Mr. Mintu Dubey and submit a report to the NHRC within two weeks.
- Direct the Director General of Police of Madhya Pradesh to initiate steps towards quashing of fabricated charges against Mr. Mintu Dubey.
- Direct the Government of Madhya Pradesh to provide compensation of Rs 10 Lakhs to Mr. Mintu Dubey for his mental and physical torture and for tarnishing his image and ensure his complete physical safety, including protection from arrest.
- Direct the Director General of Police of Madhya Pradesh to mandatorily conduct trainings on law and duty of the police for all police personnel and report the update on the same to the NHRC within three months.

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