



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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Ref No: HRDA/North/UP/04/07/2020

July 09, 2020

To,
Mr. Debindra Kundra,
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: Illegal Detention of student HRD Mr. Sharjeel Usmani in Azamgarh allegedly by state police's crime branch.

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 indications of abduction and illegal detention of Mr. Sharjeel Usmani. He was abducted/illegally detained by 5 unknown personnel claiming to be from the Uttar Pradesh Crime Branch at around 9 PM on July 8, 2020 in Azamgarh.

We would like to state here that HRDA had sent a message to you at 11:13 PM on July 8, 2020 with the following message –

Dear Mr. Kundra,

Focal Point on HRD at the NHRC,

HRDA through this brief note is making an urgent submission that HRD Mr. Sharjeel Usmani, a student of Aligarh Muslim University, has been illegally

detained by 5 unknown personnel claiming to be from the Uttar Pradesh Crime Branch at around 9 PM on July 8, 2020. Eyewitnesses claim that all mandatory arrests procedures were ignored, and no warrant, arrest memo, information to family and access to lawyer was permitted. Mr. Usmani's personal belongings like laptop, mobile phone and books are confiscated and no seizure memo also given for the same. We fear tampering of the electronic devices illegally confiscated by the police. His current whereabouts are unknown to anyone at the moment in the absence of any information to family or lawyers. We urge the NHRC, through its Focal Point on HRD, to immediately intervene and ensure Mr. Usmani is protected and no harm in whatsoever manner is done to his life, liberty and dignity. We urge NHRC's urgent intervention and HRDA will follow this with a detailed submission.

Regards

Henri

At 7:27 AM, we were asked to confirm 'the place of arrest', which we responded as Azamgarh at 9:27 AM. Additionally, we learnt and shared information that Azamgarh's Additional Superintendent of Police (crime) Arvind Kumar, has stated to the *Amar Ujala* that the arrest was made by the anti-terrorism team from Lucknow and it was related to a case filed in Aligarh in December.

At 2:52 PM and 2:54 PM, you had confirmed that he was 'arrested' by Aligarh Police in cases 682/19 (IPC Section 153 and 66 of IT Act), 697/19 (IPC Sections 147, 188 and 353), 703/19 (IPC Sections 332, 336, 307 and 504) and 704/19 (IPC Sections 147, 353 and 332). The police stations or police units where these FIRs were filed weren't mentioned. It was also mentioned that he will be produced before the court today.

Source of Information:

- Communication with HRDs in Uttar Pradesh
- Media Reports
- Social media

Date of Incident:

July 08, 2020 at around 6 PM

Place of Incident:

Azamgarh, Uttar Pradesh

The Perpetrators:

Uttar Pradesh Police

About the Human Rights Defender:

Mr. Sharjeel Usmani is a student of Aligarh Muslim University (AMU) and has been active in opposing the CAA. He has also submitted to the NHRC's team enquiring into the attack on students in the AMU.

Details of the Incident:

According to the available information, Mr. Usmani was abducted by five policemen, who claimed to be from the crime branch, from Azamgarh at around 6 PM. He was abducted at another location and taken to his maternal uncle's house, which is a clear aberration. At his uncle's house, his relatives claim that his hands were tied (handcuffed) and all of them were photographed, including his aunt in the absence of any female police officer. No one was told reasons of arrest and his place of detention was also not disclosed.

All mandatory arrests procedures were ignored. No warrant or arrest memo were produced, information to immediate family was not provided and access to lawyer was denied. Mr. Usmani's personal belongings like laptop, mobile phone and books were confiscated and no seizure memo also given for the same. His current whereabouts, despite over 24 hours of abduction, are unknown.

The official versions on this abduction differ from each other. Azamgarh's Senior Superintendent of Police (PRO) on night of July 8, 2020, told *The Quint*, "I checked with all the police stations. We don't know who arrested Sharjeel. There is some buzz on Twitter but we have no clue." Azamgarh's Additional Superintendent of Police (Crime) Arvind Kumar, has stated to the *Amar Ujala* that the arrest was made by the anti-terrorism squad of the Lucknow Police and it was related to a case filed in Aligarh in December. According to your message at 7:27 AM, Aligarh's Superintendent of Police (PRO) also didn't confirm and he committed to coordinate and inform you. Your messages at 2:52 PM and 2:54 PM, confirmed that he was arrested by Aligarh Police in cases 682/19 (IPC Section 153 and 66 of IT Act), 697/19 (IPC Sections 147, 188

and 353), 703/19 (IPC Sections 332, 336, 307 and 504) and 704/19 (IPC Sections 147, 353 and 332). The above points to a glaring miscommunication which indicates towards irregularities in procedures and conflicting versions on the circumstances of his abduction. Abduction is a gross violation of Article 21 of the Indian Constitution.

Appeal:


This is prima-facie a case where all laws pertaining to arrests – NHRC’s guidelines, guidelines in DK Basu and provisions of the Criminal Procedure Code (CrPC) – are grossly violated. This is also a case of life and liberty, and dignity of HRD Mr. Usmani. We appeal that the NHRC immediately intervenes in this case and –

- Issue notice to the Director General of Police of Uttar Pradesh to produce **within 48 hours** all relevant documents pertaining to the arrest of Mr. Sharjeel Usmani 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. Usmani 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 Mr. Sharjeel Usmani's whereabouts between abduction and production in court
- Mention details and records of all communication – in writing, wireless or telephonic – between all the police stations involved, District SPs, Crime Branch and ATS
- Written permission of the Judicial Magistrate permitting the use of handcuffs on Mr. Sharjeel Usmani
- Mention in writing the reasons of taking Mr. Sharjeel Usmani to his maternal uncle's house and subjecting the residents to photographs
- 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, 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.
- Examine whether Mr. Sharjeel Usmani was handcuffed upon abduction and in the absence of women police his aunt was photographed.
- Order urgently a thorough medical examination of Mr. Sharjeel Usmani by an independent team of doctors in Uttar Pradesh.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

National Working Secretary