



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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January 18, 2022

To
Mr. C.S 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 – Odisha: Midnight raids and illegal arrest of journalists under fabricated charges for reportage on poor facilities at Community Health Centre in Malkangiri

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 in to express our concern over the intimidation, arbitrary detention and illegal arrest of journalists Mr. Bikram Swain, Mr. Abinash Behera, Mr. Ramkrishna Galori, Mr. Chandrakant Panda and Mr. Dipak Maharana under fabricated charges by the Odisha Police.

About the Human Rights Defenders:

Mr. Bikram Swain, Mr. Abinash Behera, Mr. Ramkrishna Galori, Mr. Chandrakant Panda and Mr. Dipak Maharana are journalists based in Malkangiri district of Odisha. They have several years' experience in Odia media and have covered important issues like development, politics, human rights violations and false encounters in the past.

- Mr. Bikram Swain and Mr. Ramkrishna Galori work with Argus News, a web-based media outlet.
- Mr. Abinash Behera works with Dharitri newspaper. Mr. Chandrakant Panda is employed by Zee Odisha.
- Mr. Dipak Maharana works with The Sakal group.

Source of Information:

- Communication with the HRDs
- Communication with other HRDs in the region
- Media reports

The Perpetrators:

- Mr. Abhilash G, Sub Divisional Police Officer, Malkangiri
- Mr. Anshuman Dwivedi, Sub Divisional Police Officer, Chitrakunda
- Mr. John Kujur, Orkel police Station
- Mr. Ramprasad Nag, Inspector in Charge, Malkangiri Model Police Station
- Other personnel attached to Malkangiri Model Police Station
- Dr. Biswajit Sahu and other doctors attached with the Korukonda Community Health Centre, Malkangiri

Date of Incident:

December 17-18, 2021

Place of Incident:

Malkangiri district, Odisha

Background of the incident:

Mr. Bikram Swain, Mr. Abinash Behera, Mr. Ramkrishna Galori, Mr. Chandrakant Panda and Mr. Dipak Maharana have reported widely on the pandemic since March 2020. On December 16, 2021, around 11.20 PM, they reached the Community Health Centre at Korukonda block in Malkangiri district to report on treatment facilities. At 11.30 PM, Mr. Swain began hosting a live programme on Argus News titled 'Night Patrol Bulletin' with the help fellow journalists. He began the live coverage from the ground outside the health centre and interviewed several patients and their relatives, who complained of inadequate treatment, bad quality food and lack of proper care.

At around 11.50 PM, when Mr. Swain and other journalists were inside the hospital building talking to inmates, doctors on duty objected to their presence and accused them of violating COVID protocols. The journalists stopped the live coverage, but said they were following safe distancing, sanitisation and other COVID protocols. They said they did not need permission to enter government health facilities and talk to patients.

Arguments between medical staff and journalists continued for another 5-7 minutes, but there was no physical assault. Eventually, Mr. Swain and others left the premises, and the live programme was aired on Argus News, bringing much disrepute to the government health facilities in the area.

Details of the Incident:

On December 17, 2021, at around 9.45 PM, Dr. Biswajit Sahu attached with the Korukonda Community Health Centre submitted a written complaint at the Malkangiri Model Police Station. He alleged that at 11.30 PM on December 16, 2021, five persons including Mr. Swain forcibly entered the hospital premises in a drunken state claiming they were journalists and entered the female ward. They broadcast live visuals outraging the modesty of patients, but when doctors and nurses on duty objected, they abused and assaulted medical staff, damaged hospital property and demanded a ransom of Rs 25,000.

Police registered an FIR (596/2021) against Mr. Abinash Behera, Mr. Bikram Swain and three other unnamed persons immediately upon receipt of Dr. Sahu's complaint without questioning them even once. The accused were charged under Sections 447,

341, 294, 186, 353, 332, 384, 500, 427, 323, 506 and 34 of the Indian Penal Code, read with Section 3 of Prevention of Damage to Public Property Act, 1984.

On December 18, 2021, at around 12.30 AM, around 50-60 police personnel, all in civil clothes without any name tags, reached Mr. Swain's house in 4-5 police vehicles. The police team was led by Mr. Abhilash G, Sub Divisional Police Officer, Malkangiri and Mr. Anshuman Dwivedi, Sub Divisional Police Officer, Chitrakunda. Orkel Police Station Officer in Charge Mr. John Kujur and Malkangiri Model Police Station Inspector in Charge Mr. Ramprasad Nag were also part of the team.

Police forcibly entered Mr. Swain's house pushing past his grandfather who answered the door. They asked the HRD to accompany them to the Malkangiri police station for questioning about the fracas at the health centre, but did not inform him of the FIR against him or the fact that he was being arrested. Mr. Swain complied with these orders, and left with the police team in official vehicles.

Police then forced Mr. Swain to identify the houses of four fellow journalists who had accompanied him to the Korukonda health centre on December 16, 2021. While Mr. Swain remained seated in the vehicle guarded by armed personnel, other policemen jumped over fences and walls, banged doors and forcibly entered the houses of four other journalists. They dragged, arbitrarily detained and illegally arrested all four HRDs in violation of DK Basu guidelines, without informing them of the FIR or their arrest.

At around 2 AM on December 18, police brought all five HRDs to Malkangiri Model Police Station where they were detained overnight. Malkangiri Sub Divisional Police Officer Mr. Abhilash G, Inspector Mr. Ramprasad Nag and other police officers repeatedly asked the journalists why they had visited the health centre, and threatened to break their cameras and register false cases against them if they dared to report from government health centres again. While police threatened and intimidated all journalists in custody, Mr. Abhilash G's personal security guard also slapped Mr. Dipak Maharana on his face on twice.

The HRDs were produced before the Sub Divisional Judicial Magistrate, Malkangiri on December 18 in the afternoon, when they learned of the case against them. They were remanded in Malkangiri sub jail and released on bail on December 23, 2021. Subsequently, Mr. Swain and others filed a written complaint at the Malkangiri Model Police Station against doctors and medical staff, and police registered a counter FIR. But no action has been taken against accused medical staff yet.

Meanwhile, bail conditions require all five HRDs to report to the local police station thrice per week, and they are unable to continue with their jobs as journalists owing to these restrictions. The HRDs also fear more fabricated cases may be filed against them and they may be arrested without due procedure again.

We are shocked by the midnight raids on homes of well-known journalists, their illegal arrests violating the DK Basu guidelines of arrest; threats, intimidation and assault in police custody.

A fair and independent media is an important and essential fourth pillar of the democracy. These instances amount to a gross abuse of the HRDs' fundamental right

to life and personal liberty granted by Article 21 of the Indian Constitution. The right to exercise freedom of speech and expression is enshrined under Article 19(a) of the Indian Constitution.

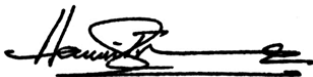
Appeal:

We request the Hon'ble Commission to urgently:

- Direct the Director General of Police of Odisha to initiate an independent inquiry into the police action against the HRDs, including their arbitrary detention and illegal arrest in a fabricated case, and submit a report to the NHRC.
- Depending on the result of the inquiry, take stern action against errant police officials and quash false charges against the HRDs.
- Direct the Chief Secretary of Odisha to initiate an independent inquiry into the involvement of doctors and medical staff in implicating the journalists in a fabricated case, and submit a report to the NHRC. Depending on the result of the inquiry, take stern action against errant medical staff of the government hospital.
- Provide full physical and psychological security against further harassment, intimidation and threats by the Odisha Police.
- Recommend compensation to the five journalists for subjecting them to custody on false grounds and tarnishing their image and reputation.

Looking forward to your immediate action in this regard.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', followed by a horizontal line.

Henri Tiphagne
National Working Secretary