



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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NHRC Diary No. 6678/IN/2020 for the complaint submitted online

Ref No: HRDA/North/UP/05/05/2020

May 25, 2020

To

Mr. Debindra Kundra,
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: Human Rights defender Mr. Pankaj Vajpayee falsely arrested and tortured by police officials for requesting them to do their duty of initiating the process of medical examination of symptomatic persons during COVID pandemic– Regarding

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 torture and false arrest of human rights defender Mr Pankaj Vajpayee for requesting the police personnel to do their official duty of initiating the process of medical examination of symptomatic persons during COVID pandemic.

Source of Information:

- Communication with the HRDs in the region
- Media Reports

Date of Incident:

May 5, 2020

Place of Incident:

Bhelpur Police Station, Varanasi district, Uttar Pradesh

The Perpetrators:

Police Personnel of Bhelpur Police Station, Varanasi district, Uttar Pradesh

About the Human Rights Defender:

Mr. Pankaj Vajpayee is a lawyer and human rights defender. He has taken various initiatives to defend the human rights of people and in the present matter also, he approached the police personnel to provide information regarding the people exposed to the disease.

Details of the incident:

On May 5, 2020, Mr Pankaj Vajpayee approached the police personnel of Assi Chowki, Bhelpur police station, Varanasi district to provide information regarding the labourers residing in his neighbourhood who are at the risk of being infected with the disease. As a responsible citizen, he visited the police station to provide information to the police officials in order to ensure that the labourers are tested for COVID on an urgent basis. However, the scenario at the police station was highly unexpected. As per newspaper reports (annexure 1), in violation of their official duties, the police personnel were consuming alcohol at the police station. Due to Mr Vajpayee's visit, they got angry and started arguing with him. They shooed him away and he went back to his home.

At around 11 PM, 4-5 officers, in a drunken state, reached Mr Vajpayee's house and started beating his family members. They forcefully dragged Mr Vajpayee and his brother to the police station and kept them in lockup. One of the friends of Mr Vajpayee reached to the police station, to know about their whereabouts but he was also detained by the police officers. Due to the connections of Mr Vajpayee's sister who is a member of Bhartiya Janata Party (BJP), he was released but his brother and friend were still kept in the lockup. Later in the night, medical examination of Mr Vajpayee and his friend was done as per the instructions of police officials. On the basis of a fake medical report, an official notice was given under Section 151 of

Indian Penal Code for knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse. It was alleged that their actions disrupted public peace. After issuing the notice, a couple of police personnel tortured and mercilessly stroked both the men.

On the next day, May 6, 2020, Mr Vajpayee and his friend were produced before the Additional City Magistrate (ACM) and an order for their medical examination was given. The medical examination was done at Kabirchaura hospital and the report states that the bruises on Mr Vajpayee's body are a result of excessive beating. On May 7, 2020 a false case under Section 323 (punishment for voluntarily causing hurt), 504 (Intentional insult with intent to provoke breach of the peace), 506 (criminal intimidation), 427 (mischief), 322(voluntarily causing hurt) and 307 (attempt to murder) of Indian Penal Code was filed against Mr Vajpayee.

The conduct of police personnel of merciless beating and torture in the present case is violative of procedural requirements given by the Supreme Court in the case of DK Basu v State of West Bengal. It is mentioned in the case that custodial torture by the police during interrogation is in violation of the human rights of the people and falls within the inhibition of Article 21 of the Constitution.

The above incident is a clear case of misuse of power by the police officials. The arbitrary arrest of Mr Vajpayee and his friend is violative of Article 21 and 22 of the Constitution which provides for right to live with dignity and safeguards against arbitrary arrest respectively. Mr Vajpayee in good faith and acting as a responsible citizen of the country, aimed to provide information pertaining to Coronavirus outbreak. However, the conduct of police personnel poses a serious question in front of us regarding the ignorance of police to contain the pandemic.

We would also like to stress upon the fact that during the time of global crisis, police officials filed a false case and kept three people in police custody which is in contradiction with the social distancing norms suggested by the government. In Re Contagion of COVID-19 virus in prison, a suo-motu case of the Supreme Court, the apex court has directed all states to establish systems to decongest prisons during the current pandemic.

We urge the Hon'ble Commission to immediately intervene in this matter of the police misusing law to silence questions by human rights defenders and restricting their fundamental rights to dignity and liberty.

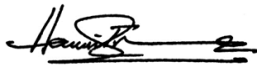
Appeal:

We therefore urge you to immediately take necessary steps to:

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident involving the false case filed against Mr Pankaj Vajpayee;
- Direct the District Magistrate, Varanasi and the Senior Superintendent of Police to submit a comprehensive report along with the medical examination of the HRD and the policemen.
- Direct the Chief Secretary, Uttar Pradesh to ensure a congenial atmosphere for the HRDs of the state, free from the fear of excessive state action, in order for them to continue their work in human rights.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

National Working Secretary