



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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Ref. No:- HRDA/North/DL/5/8/2018

August 28, 2018

To,
Justice (Retd.) H.L. Dattu,
Chairperson,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block - C, GPO Complex, INA,
New Delhi – 110 023
Email: chairnhrc@nic.in cr.nhrc@nic.in

Respected Justice (Retd.) Dattu,

Sub: Raids and arbitrary arrests of human rights defenders (activists and advocates) in New Delhi, Mumbai, Goa, Hyderabad and Ranchi by personnel of Maharashtra Police - Regarding

Human Rights Defenders Alert – India (HRDA) had issued an urgent action petition on June 6, 2018, regarding the arbitrary raids and arrests conducted by the Pune and Maharashtra police on lawyers and human rights defenders - Adv. Surendra Gadling, Mr. Sudhir Dhawale, Prof. Shoma Sena, Mr. Rona Wilson and Mr. Mahesh Raut. After their arrests, the activists were taken to Pune from various locations on transit remand by the Pune Police and are currently under judicial remand in Yerwada Jail in Pune. They were arrested under FIR No. 4/2018 lodged by one Tushar Damgude at Pune City's Vishrambaug police station on January 8, 2018 against Sudhir Dhawale along with other members of the cultural group Kabir Kala Manch. It is falsely alleged in the FIR that the human rights defenders had circulated controversial pamphlets and delivered hate speeches in an event organised by a coalition of 260 non-profit organisations, called Elgar Parishad on December 31, 2017, at Pune's Shaniwar Wada, which police claim led to the Bhima Koregaon violence that broke out on January 1, 2018. This FIR, originally registered u/s 153(A), 505 (1)(b), 117 and 34 of the Indian Penal Code (IPC) was turned into a conspiracy case in March 2018, and sections of the draconian Unlawful Activities Prevention Act (UAPA) were added.

A prejudicial narrative was created in the mainstream media immediately following the arrests of the above mentioned human rights defenders, projecting them as “Maoist operatives” to justify their arbitrary arrests and the Pune police joint commissioner, Ravindra Kadam, had claimed that the Elgar Parishad event was funded by Maoist organisations. Thereafter, a letter was circulated in the media, that was claimed to be recovered by the police from the laptop of Rona Wilson, which allegedly stated that the activists were planning to “target Prime Minister Narendra Modi in an attack similar to the assassination of former PM Rajiv Gandhi”.

HRDA had also issued an urgent action petition on April 20, 2018 regarding the arbitrary raids and searches conducted by Pune police personnel on April 17, 2018, at the residences of Mr. Sudhir Dhavale, Ms. Harshali Potdar, Mr. Ramesh Gaychor, Ms. Jyoti Jagtap, Mr. Sagar Gorkhe, Ms. Rupali Jadhav, Mr. Dhawala Dhengle, Adv. Surendra Gadling and Mr. Rona Wilson who the police claimed were connected with the organising of the Elgar Parishad event. The police claimed that it was the speeches made by activists at the Elgar Parishad that incited the January 1 violence. In the petition, HRDA had also explained about -

- The targeted violence by the Hindutva right-wing groups instigated by Mr. Sambhaji Bhide and Mr. Milind Ekbote in Bhima Koregaon on January 1, 2018
- State wide protests calling for the arrest of Mr. Sambhaji Bhide and Mr. Milind Ekbote
- No action taken against Mr. Sambhaji Bhide and Mr. Milind Ekbote
- Police retaliation by conducting massive combing operations in Dalit households, arbitrarily searching homes, arresting young men and illegal detentions.

Hon'ble Commission should also note that on January 3, 2018 the Pune police filed cases against Mr. Milind Ekbote, head of the Hindu Ekta Manch, and Mr. Sambhaji Bhide, chief of the Shiv Pratishtan Hindustan for allegedly instigating the violence on Dalits in Bhima Koregaon. However, while Mr. Milind Ekbote was released on bail soon after being arrested in March, Mr. Sambhaji Bhide has not yet been arrested, despite a Supreme Court order demanding his arrest. The anticipatory bail application of Mr. Milind Ekbote was rejected by the Supreme Court on March 14, 2018.

HRDA through this urgent action petition is placing before the Hon'ble Commission the recent condemnable events in this case. On the morning of August 28, 2018, the Pune Police launched simultaneous raids at the homes of several human rights defenders who are activists, priests, writers and lawyers in Mumbai, New Delhi, Ranchi, Goa and Hyderabad. Following the raids, the police have arrested Adv. Sudha Bharadwaj, Mr. Gautam Navlakha, Mr. Vernon Gonsalves, Adv. Arun Ferreira and Mr. Varavara Rao. Among those whose residences were raided, include Adv. Susan Abraham, journalist Mr. Kranthi Tekula, Fr. Stan Swamy SJ and Mr. Anand Teltumbde. As per newspaper reports, a relative of Mr. Varavara Rao confirmed that his daughter Ms. Anala and son-in-law Mr. K.V. Kurmanath's house had also been raided, and their laptops and hard drives were seized. Raids also took place at the residence of Prof. K Satyanarayana from the English and Foreign Languages University (EFLU), who is also Mr. Varavara Rao's son-in-law. All the raids and arrests have been conducted in the same FIR No. 4/2018, PS Vishrambaug, Pune for the Bhima Koregaon violence that broke out on January 1, 2018. According to sources, laptops, phones and other materials were seized from some of the residences. A contingent from Vishrambag police station in Pune, which is investigating the Bhima Koregaon violence, is part of the raids.

Adv. Sudha Bharadwaj is a human rights activist and a visiting faculty at the National Law University, Delhi. She is also the National Vice President of the People's Union for Civil Liberties (PUCL). Her house on Badarpur border in the State of Haryana under the jurisdiction of PS Surajkund, was raided by a group of Maharashtra police officials from Swargate Police Station, Pune and she was taken into custody. During the search operation, documents given to Adv. Sudha Bharadwaj by the police officials were in Marathi which is a language not known to her and thus not able to read and understand the contents. There was thus, no compliance with the requirements of Section 165 and 166 of the Code of Criminal Procedure (CrPC), 1973, as she was unable to read the contents of the document and neither understand the ground or purpose of conducting the search. According to the *panchama*, Adv. Sudha Bharadwaj has been charged under Sections 153a, 505, 117 and 120 of the IPC and several sections of the Unlawful Activities (Prevention) Act. The police were at her home from 5:30 am and all electronic devices including her laptop, mobile phones, pen drives as well as a diary with empty

pages have been seized. There is an apprehension that these could be tampered with. Adv. Sudha Bhardwaj's transit remand has been stayed for two days by the Punjab and Haryana High Court and she has been directed to be kept under house arrest till then.

It is also pertinent to note that HRDA had issued an urgent action petition on July 6, 2018, pertaining to the false accusations made by Republic TV based on two fabricated letters, made against lawyer and human rights defender Adv. Sudha Bharadwaj, Mr. Gautam Navlakha and other human rights defenders and lawyers. In the show the activists were termed as 'Urban Naxals' and an attempt was made to establish links with the Kashmiri separatist groups.

Mr. Gautam Navlakha is a civil liberties, democratic and human rights activist; and a journalist. He has been an editorial consultant of the Economic and Political Weekly and has been engaged in the longstanding activism by the People's Union for Democratic Rights (PUDR) as a veteran activist. His house was also raided and he was arrested from his home in Delhi at around 2 pm on August 28, 2018. He has been charged under Sections 153a, 505, 117 and 120 of the IPC and several sections of the Unlawful Activities (Prevention) Act. As per newspaper reports, the police personnel who were conducting the search were not disclosing any details about their designation. Mr. Gautam Navlakha's transfer to Pune after his arrest was approved by an order of the Metropolitan Magistrate, Saket Court Delhi. However, a habeus corpus petition was filed in the Delhi High Court and the high court has stayed any action till August 29, 2018, and has directed that Mr. Gautam Navlakha should be kept under house arrest till then. The matter will be heard by the Delhi High Court in the morning of August 29, 2018.

Similarly, the homes of human rights defenders Mr. Vernon Gonsalves and Adv. Arun Ferreira were also raided and they were arrested from their homes in Mumbai. It is being reported that around 15 officers from the Pune police landed up at Adv. Arun Ferreira's place at around 6 am on August 28, 2018. His wife's laptop and pen drives have been seized, and the entire family's bank details have been noted. The panchnamas stated that the arrested individuals will be taken to Pune later in the day. It is pertinent to note that Adv. Arun Ferreira is defending the 5 human rights defenders who were arrested in this case on June 6, 2018.

Mr. Varavara Rao is a noted human rights activist and a renowned poet, journalist, literary critic, and public speaker from Telangana, India. He has been writing poetry since 1957. He was arrested from his home in Hyderabad in the afternoon of August 28, 2018, for his alleged role in the Bhima Koregaon violence and was taken to Nampally court. His family has alleged that their house was ransacked by a team from the Pune police.

Among those whose residences were raided, include Adv. Susan Abraham, journalist Mr. Kranthi Tekula, Fr. Stan Swamy and Mr. Anand Teltumbde. As per newspaper reports, Mr. Dipak Nikam, inspector, crime branch Pune, led a team of eight Maharashtra police who were in civil dress, accompanied by the local Ranchi police, to the residence of Fr. Stan Swamy with a search notice written in Marathi. Laptops, mobile, camera, tablet, memory card, music tapes etc. have been seized from Fr. Stan Swamy's house. Fr. Stan Swamy is a social analyst and is the founder member of Vistapan Virodhi Janvikash Andolan (VVJA) and has spent decades defending the civil rights of the marginalized sections of the society. Presently, he is also engaged on the issues of displacement faced by the indigenous adivasi and dalit people of Jharkhand. On July 29, 2018, Jharkhand Police had lodged a false FIR against Fr. Stan Swamy and 20 others at Khunti police station, Jharkhand u/s 121,121A and 124(A) IPC which came to the attention of Fr. Stan Swamy and others only through media sources. It is pertinent to mention an urgent action petition was submitted by HRDA regarding the same on July 31, 2018, in which it was mentioned that ever since the process of Patghalgadi has started in the state of Jharkhand, at Khunti police station alone Jharkhand police has registered around 25 similar cases of sedition against 1,500 innocent tribals.

Mr. Anand Teltumbde is a writer, civil rights activist, and political analyst. He has authored many books (translated widely in most Indian languages) on various issues relating to peoples' movement with particular emphasis on Left and Dalits and is a noted scholar on the subject. Mr. Anand Teltumbde's house in Goa, on the premises of the Goa Institute of Management, was raided on August 28, 2018, while he was not in town. According to the newspaper reports, Mr. Anand Teltumbde was informed by an official at the institute that police had arrived at the campus with sanction to raid his house.

All of the above-mentioned persons have been long associated with several social movements and have worked on a range of issues concerning human rights, democracy, civil liberties, rights of Dalits and other marginalised communities etc. Raids and searches on April 17, 2018, and arrests on June 6, 2018, and August 28, 2018, clearly indicate this to be an orchestrated attack on human rights defenders for their initiatives for justice after the Bhima Koregaon violence. These arrests under UAPA is also an attempt by the Maharashtra government to curtail the fundamental rights guaranteed under Articles 14, 19 and 21 of the Indian Constitution. UAPA has several draconian provisions and one of them is allowing detention without filing of a charge-sheet for up to 180 days. These arrests under UAPA are undertaken also to deter other organisations, movements and individuals who are calling for actions against pro-Hindutva leaders Sambhaji Bhide and Milind Ekbote, who have a history of allegations against them for causing communal and caste tensions, rioting, etc.

It is pertinent to note here that in the complaints and FIRs against Sambhaji Bhide and Milind Ekbote, UAPA was not invoked by the same police. A Judicial Commission headed by Justice (Retd.) JN Patel was set up by the Maharashtra government after the Bhima Koregaon violence and these arrests will definitely ensure that testimonies against the two main accused and their organisations are not brought forward. These arrests are also an attack on expression and dissent by the Maharashtra government and undertaken to restrict the criticism ahead of the upcoming national and state elections.

HRDA strongly condemns this act of state reprisal and attempts of the state to stifle voices of dissent. HRDA believes these human rights defenders are being targeted for their work to ensure justice in the case of Bhima Koregaon violence where the prime accused are associated with the Hindutva right-wing groups.

HRDA also condemns the concerted state effort to shield the two main perpetrators Sambhaji Bhide and Milind Ekbote, accused of inciting the Bhima Koregaon violence. These Hindutva right-wing groups are closely associated with the current ruling dispensation at the centre and state and the immunity provided to the two prime accused, contrary to the arrests of human rights defenders, speaks volume of the intentions of the state.

Appeal:

HRDA had approached the Hon'ble Commission on multiple occasions (between April – July 2018) with regard to the cases mentioned in this urgent appeal but none of them had a positive hearing from the Hon'ble Commission. The cases either stand disposed off (in-limni) or not independently investigated. As the apex human rights institution in the country, it is the onus of the Hon'ble Commission to intervene in the cases when human rights defenders are subjected to orchestrated attacks like these.

HRDA urges the Hon'ble Commission to:

- Order an immediate, independent, thorough, transparent, effective and impartial investigation, through NHRC's independent investigation team, into the above-arrests of the human rights defenders, Adv. Sudha Bhardjwaj, Mr. Gautam Navlakha, Mr. Vernon Gonsalves, Adv. Arun Ferreira and Varavara Rao and the illegal and arbitrary raids in the houses of Adv. Susan Abraham, Mr. Kranthi Tekula, Fr. Stan Swamy and Mr. Anand Teltumbde;
- The independent investigation team must record statements of all the human rights defenders mentioned in this appeal and the earlier appeal numbered as 379/90/0/2018;
- Order that UAPA charges against Adv. Sudha Bhardjwaj, Mr. Gautam Navlakha, Mr. Vernon Gonsalves, Adv. Arun Ferreira and Mr. Varavara Rao are dropped and these persons are immediately and unconditionally released;
- Given that Mr. Sambhaji Bhide, Mr. Milind Ekbote and other perpetrators responsible for violence at Bhima Koregaon are scot free, ensure through exercising provisions of Protection of Human Rights Act, 1993 and intervene in the cases filed against them through a competent criminal lawyer appointed by the Hon'ble Commission;
- Ensure in all circumstances that human rights defenders and those who participated in the peaceful protests are not intimidated by any legal action, and;

- Guarantee in all circumstances the physical and psychological integrity of all the activists and their family members from any further reprisals from the perpetrators and using all provisions of law to ensure that they not harassed or intimidated in future.

Looking forward to your immediate action in this regard.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Henri Tiphagne", with a horizontal line underneath.

Henri Tiphagne

National Working Secretary