



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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December 22, 2021

To,  
Mr CS Mawri,  
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](mailto:hrd-nhrc@nic.in)

Dear Sir,

**Sub: HRD Alert – Urgent Appeal for Action – Maharashtra: Illegal detention, arrest and fabricated charges on activists protesting illegal mining leases in Gadchiroli.**

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 the illegal detention of human rights activists in Gadchiroli district of Maharashtra who were protesting illegal mining in Surjagad, Gadchiroli.

**Source of Information:**

- Communication with HRDA West Regional Consultant
- Communication with the HRDs
- Communication with other HRDs in the region
- Media Reports

**Date of Incident:**

October 29, 2021

**Place of Incident:**

Etapalli, Gadchiroli, Maharashtra

**Perpetrators:**

- Mr Patil, Inspector, Etapalli police station, Gadchiroli
- Mr. Ankit Goyal, Superintendent of Police, Gadchiroli
- Mr. Sanjay Meena, District Collector, Gadchiroli
- Sub-Divisional Magistrate of Etapalli, Gadchiroli

**About the Human Rights Defenders:**

- Mr. Sainu Gota is a Zilla Parishad member and has been working for Adivasi rights, and against illegal mining and land acquisition.
- Ms. Sheela Gota is an elected member of the panchayat of Etapalli and has been actively fighting for Adivasi right and illegal mining and land.
- Mr. Ramdas Jarate has been part of past movements against mining, land acquisition and adivasi rights and is part of the Bharatiya Shetkari Kamgar Sanghatna.
- Ms. Jaishree Velda has been part of past movements against mining, land acquisition and adivasi rights and is part of the Bharatiya Shetkari Kamgar Sanghatna.
- Mr. Nitin Pada, is the Secretary of the district Mahagramsabha.
- Mr. Amol Marakwar, District Secretary of the Communist Party of India (Marxist).
- Mr. Lalsu Nagoti, Zilla Parishad member and has been working for Adivasi rights, and against illegal mining and land acquisition.
- Mr. Prajwal Namulwar, Adivasi rights activist.
- Ms. Premila Kulyami, Adivasi rights activist.

### **Background of the Incident:**

Local Adivasi communities in Gadchiroli have been fiercely opposing the 25 government sanctioned mines in Gadchiroli, which includes the mine at Surjagad. The Adivasi communities state that the decision to grant mining licenses is illegal as the gram sabhas in the region have not given the permission for the same.

On October 25, 2021, there was a peaceful morcha carried out against the mining leases and had nearly 4,000 protestors from local Adivasi villages. The morcha ended at Etapalli, where several protestors camped.

### **Details of the Incident:**

On October 29, 2021, at around 5.45 a.m. a large police force, of around 300 police personnel, some in uniform and some in plain clothes, swooped down at the protest sites and detained Mr. Sainu Gota, Ms. Sheela Gota, Mr. Ramdas Jarate, Ms. Jaishree Velda, Mr. Nitin Pada and Mr. Amol Marakwar.

They were put in vans and taken to a police camp in Aheri. They were not even allowed to wear *chappals* and had to walk barefoot until they were presented before the judicial magistrate. Mr. Jarate was not allowed to wear clothes and was taken to the police camp in his shorts and half shirt that he had been wearing when the raid happened. No paperwork was given to any of them for either detention or arrest.

At Aheri police camp, they were made to sit in a separate room until 1 p.m. like criminals. Thereafter, each one of them were called by Mr. Anuj Tare, Additional Superintendent of Police, who asked them what they are planning to do next.

On October 29, 2021, at around 4 p.m., they were taken to Aheri police station and were formally charged. An FIR (0036/2021) was registered at the Etapalli police station against nine HRDs and 100 unnamed individuals under Indian Penal Code sections 188 (Disobedience) and 269 (Negligent act likely to spread infection of disease dangerous to life), Section 2 of Epidemics Act which gives power to state government to take special measures and prescribe regulations as to dangerous epidemic disease and the Maharashtra Police Act sections 37 (1), 37 (3), 135.

The FIR has named Mr. Sainu Gota, Ms. Sheela Gota, Ramdas Jarate, Ms. Jaishree Velda, Nitin Pada, Amol Marakwar, Mr. Lalsu Nagoti, Mr. Prajwal Namulwar, Ms. Premila Kulyami.

At 5.30 p.m. they were taken to the district court and were granted bail. Their lawyers were present at the court, but they were not allowed to speak with them at any time prior to this. At 6.15 p.m. they were taken to back to the police camp, even after being granted bail where they were held stating that they were being issued a notice by the sub-divisional magistrate of Etapalli.

At 9.15 p.m. they were issued a notice under section 107 of the Code of Criminal Procedure (CrPC), which provides powers to an executive magistrate if he is convinced that individuals are likely to commit a breach of the peace or disturb the public tranquility to ask individuals to show cause as to why they should not execute a bond. After the notice was issued, they were released.

During their illegal detention and arrest, Inspector Patil of Etapalli police station, confiscated two phones belonging to Mr. Jarate and Ms. Velda. On October 30, 2021, Mr. Jarate called Mr. Patil and asked him to return the mobile phone. In response, Mr. Patil said that he had not taken the mobile phone. The phones were later found in the same police station and returned to Mr. Jarate a few days later.

On November 1, 2021, Mr. Jarate submitted a written complaint highlighting this ordeal to several authorities and expressed fear that he and his wife, Ms. Velda, would be charged and implicated in false cases based on false evidence that may be planted in their phones. The confiscation of the mobile phones of the two HRDs without a warrant is blatantly illegal. Moreover, the disappearance the phones and subsequent denial by the police official of having confiscated the phones raises several grave questions to the intent of the official as well.

Procedures laid down under the DK Basu guidelines were flouted. The detention and arrest are in contravention to the UN declarations and amounts to a direct attack on the fundamental rights to freedom of speech and expression and to peacefully assemble guaranteed in Article 19 of the Constitution of India.

The UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels; (article 1). That “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration” (Article 12.2).

Media reports have quoted Superintendent of Police Mr. Ankit Goyal saying that the sub-divisional magistrate of Etapalli promulgated an order under section 144 prohibiting congregation and that they “evicted the protestors and detained their leaders.” on the grounds of section 144 having been in force.

The right to assemble peacefully is enshrined under Article 19(b) of the Indian Constitution. The Human Rights Council resolution 15/21 adopted in October 2010 reaffirms that everyone has the right to freedom of peaceful assembly free of restrictions that is subject only to the limitations permitted by international law, in particular international human rights law.

The imposition of section 144 against a peaceful sit in protest is misuse of the powers provided under it. A Supreme Court bench consisting of Justices NV Ramana, R Subhash Reddy, and BR Gavai in a 2020 judgment stated the section “cannot be used to suppress legitimate expression of opinion or grievance or exercise of any democratic rights” and that “repetitive orders” under Section 144 would be “an abuse of power.”

The notice issued to the HRDs under section 107 is also an overreach as it implies that the HRDs intended to commit a breach of the peace, disturb the public tranquility or do a wrongful act. The HRDs have been peaceful protestors with many holding public office in the Zilla Parishad and Panchayat. The notices are being misused to quell legitimate democratic protests the Surjagad mines.

The FIR is also being used to target local leaders who have been active in the protests against illegal mining and land acquisition. In addition to the above mentioned, HRDs Goi Kodape, Chairman of Panchayat Samiti, Bhamragad, and Sukhram Madavi, Deputy Chairman of the Panchayat Samiti, Bhamragad have also been issued notices under the same FIR.

We believe that the local police and district administration will continue to use the FIR to harass and intimidate local HRDs.

## **Appeal**

We thus request the Hon'ble Commission to urgently:

- Initiate an immediate, independent, thorough, transparent, effective, and impartial investigation through its investigative wing into the police excesses and illegal detention of the HRDs.
- Depending on the result of the inquiry, direct the Director General of Police of Maharashtra to take stern action against those police officials guilty of misuse of law, arbitrary detention, and arrest under fabricated charges of human rights defenders.
- Direct the Director General of Police of Maharashtra to initiate an investigation on Mr. Patil, Inspector, Etapalli police station, Gadchiroli, for his confiscation of the mobile phones of the HRD.
- Direct the Director General of Police of Maharashtra to take measures that all fabricated charges against the HRDs are quashed.

Yours Sincerely,



**Henri Tiphagne**  
National Working Secretary