



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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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

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Haryana: Illegal arrest, custodial torture and assault of WHRD Ms. Nodeep Kaur by Haryana Police.

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 shock and concern regarding the 23 years old Dalit Woman Human Rights Defender Ms. Nodeep Kaur who has been arrested on fabricated charges, without proper procedure, subject to custodial torture and sexual assault by the police of the Kundli police station, Haryana.

Source of Information:

- Communication with the HRDA North Regional Coordinator
- Communication with victim's family and local HRDs
- Fact Finding reports (National Confederation of Human Rights Organizations (NCHRO))
- Media Reports

Date and Time of Incident:

- December 28, 2020
- January 12, 2021

Place of Incident:

Kundli, Haryana

The Perpetrators:

- Mr. Ravi Kumar, Station House Officer, Kundli Police Station, Kundli, Sonipat
- Police personnel of the Kundli Police Station, Kundli, Sonipat
- Mr. JS Randhawa, Superintendent of Police, Sonipat
- Quick Response Team, Kundli Industrial Area, Kundli, Sonipat, Haryana
- Kundli Industrial Association
- Mr. Subhash Gupta, President of Kundli Industrial Association
- Mr. Bijender Garewal, Security In-Charge, Kundli Industrial Association
- Mr. Lalit Khurana, Accountant Elecmech Pvt. Kundli, Sonipat

About the Human Rights Defender:

Ms. Nodeep Kaur (23) is a worker and Dalit labour rights activist working with Mazdoor Adhikar Sangathan (MAS). She passed class XII a few years ago, and joined a factory in Kundli as a worker.

MAS was formed in 2016 with the aim of organizing workers against the discriminatory wage system, exploitation of women workers and has been working since 2018, among workers in the Kundli Industrial Area (KIA).

Background of the Incident:

On December 28, 2020, the workers of Kundi took out a march in factory area of Kundli, Sonipat for payment of their pending wages. Some factories cleared their dues while other promised to pay later. During the march, KIA bouncers (henchmen) tried to disperse the protesting workers. They abused, attacked and manhandled the workers. One of the bouncers also opened fire on the ground in order to intimidate the workers, however, the workers stood there and resisted.

Later in the day, an FIR was lodged by the KIA's president Mr. Subhash Gupta against the protestors in Kundli Police station in which Ms. Nodeep Kaur, Mr. Shiva, and some other workers were mentioned that the labourers were troubling them for payment. Mr Bijender Garewal, KIA's security in-charge, claimed the firing was in air as self-defence, when the labourers attacked them. However, Station House Officer of the Kundli police station Mr Ravi Kumar said that no firing took place on December 28 and that under the guise of supporting farmers, labourers were engaged in "money extortion" and an FIR had been registered against them.

On the same day, the workers also sent a complaint letter about the whole incident to the Superintendent of Police, Sonipat, Haryana, and even mailed it to his office but received no reply from the police.

Details of the incident:

On January 12, 2021, the workers under the leadership of the MAS conducted a strike and took out a march for non-payment of dues. MAS had already sent advance warning of the strike. Around 11:30 am the workers march reached at Plot number 349, Ph 4, where a worker's payment of Rs 5000 was pending. The workers approached the factory and started protesting, following which the company made stress calls to KIA's Quick Response Team (QRT) which reached the protest site and started threatening the workers. The workers resisted and started sloganeering against them.

Around 12 noon, 3-4 policemen, including Mr. Ravi Kumar, SHO Kundli Police station, reached the protest site and started abusing and manhandling the workers including the female workers. They also attempted to arrest Ms. Nodeep Kaur, leading to scuffle between the workers and policemen. The police lathi-charged the protestors. As the scuffle escalated, a police constable (unnamed) fired 8-10 rounds of live bullet shots. Fearing for their lives, the workers' dispersed and Ms. Nodeep Kaur was dragged and beaten by the henchmen of the KIA.

Ms. Kaur was then taken to the Kundli police station by policemen. Her family was not informed about her arrest and no arrest memo was given. Around 1 pm, 40-50 workers reached Kundli police station to inquire about Ms. Nodeep, but were chased away by the police. Around 6pm, an advocate and two other friends of Ms. Nodeep's sister went to Kundli police station and were told that Ms. Nodeep has been taken before the Magistrate. But till late night when they did not know exactly where Ms. Nodeep is, so her sister reached at the residence of SP Sonipat with her friends around 12:30 am and they got information from the

control room that Mr. Nodeep has been sent to Karnal jail in Sonipat in judicial custody for 14 days.

On January 12, 2021, two FIRs were lodged at Kundli Police Station, against Ms. Nodeep Kaur and other workers. One FIR (25) was registered by police and another FIR registered (26) by Mr. Lalit Khurana, Accountant at Elecmech Pvt. Ltd. Kundli.

FIR number 25 was registered by the police under sections of IPC **148**-Rioting, armed with deadly weapon, **149**-Every member of unlawful assembly guilty of offence committed in prosecution of common object, **332**-Voluntarily causing hurt to deter public servant from his duty, **353**-Assault or criminal force to deter public servant from discharge of his duty, **186**-Obstructing public servant in discharge of public functions, **384**-Punishment for extortion, **379B**-Snatching with hurt, wrongful restraint or fear of hurt, **307**- Attempt to murder. The police narrative according to the FIR number 25 is that they were informed that workers armed with rods and batons were creating nuisance outside the company and attempting to extort money, hence they rushed to the protest spot and Ms. Nodeep Kaur and her 40-50 aids attacked on the police team with the malicious intention of taking revenge for previous FIR, which was registered against MAS members and Nodeep on December 28, 2020.

FIR number 26 registered by Lalit Khurana under sections of IPC **148**- Rioting, armed with deadly weapon, **149**- Every member of unlawful assembly guilty of offence committed in prosecution of common object, **323**-Punishment for voluntarily causing hurt, **452**-House-trespass after preparation for hurt, assault or wrongful restraint, **384**- Punishment for extortion, **506**-Punishment for criminal intimidation at same police station Kundli police station, Kundli, Sonipat. According to FIR 26, on January 12 at 11 am, 40-50 people entered Elecmech Pvt with 3-4 women and started asking for recovery money. When the company refused to give money, they started fussing. The guards let them out of the company and called the police. When the police arrived, the workers assaulted the policemen with sticks due to which police personnel also got hurt. One of them called her name Nodeep and fled threatening to kill the accountant.

According to Ms. Nodeep's conversation with her sister on January 13, 2021, after taking her to the police station she was subject to custodial torture as she was beaten first by the male policemen, then by female policewomen with sticks. Ms. Nodeep Kaur family appealed to the magistrate for an MLC on January 14, 2021 and medical was done on January 25, 2021. Her sister Rajveer Kaur, who visited her in jail said that Nodeep has been brutally

assaulted in custody by male police officers and has injuries on her private parts. Their lawyer said that the medical reports confirmed the same.

It is our firm belief that the Haryana police acted in complete violation of Indian Constitution, multiple national and international human rights norms, as well as wrongful arrest procedures in noncompliance with the DK Basu Guidelines of arrest. According to the DK Basu guidelines, an arrest memo must be given at the time of arrest and one family member informed which was not done by the police. Guideline 8 says that a medical examination must be done of the detainee within 48 hours, but the police were in violation of this and an MLC was done only when the family of Ms. Kaur met her and were shocked to see injuries on her body.

We also note with shock the allegations of the young woman being subject to custodial torture and assault on her private parts in the police custody. The DK Basu guidelines clearly state that the detainee has the right not to be ill-treated or tortured during arrest or in custody. Torture is banned by India and the international human rights law.

The Supreme Court in one of the recent orders (Paramvir Singh Saini v. Baljit Singh & Ors., SLP (Criminal) No. 3543 of 2020) has held that in case a victim during an interrogation by any of the agencies like Police, CBI, NIA, ED etc., has a right to obtain the CCTV footage if there is any human right violation faced by the victim. The victim can approach the National/State Human Rights Commission, Superintendent of Police or Human Rights Courts. Further every interrogation room should have CCTV's installed. Thus it is essential that CCTV footage of the interrogation of Ms. Nodeep is given to the NHRC.

There are also other questions – why was no cognisance taken of the workers complaint regarding the firing on December 28? Why is there contradicting evidence as to whether bullets were fired or not on December 28 at the protestors? We believe that the Haryana police has indulged in serious abuse of power at the behest of vested interests.

Appeal:


The Hon'ble Commission should urgently:

- Direct its independent investigation wing to conduct an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident of illegal arrest, detention, inhuman treatment, custodial torture and assault of Ms. Nodeep Kaur by the police personnel of Kundli police station and submit a report to the Hon'ble Commission within 2 days.

- Order all the relevant CCTV footages, including that of the interrogation of Ms. Nodeep Kaur and file a report within two days to the Hon'ble Commission.
- Direct the Director General of Police of Haryana to initiate strict and immediate legal action on the perpetrators subject to the investigation report, in this case the Superintendent of Police of Sonipat for negligence, Mr. Ravi Kumar, Station House Officer, Kundli Police Station, and other police personnel of Karnal and Kundli PS who indulged in custodial torture.
- Ensure that all charges on WHRD Ms. Nodeep Kaur are withdrawn and the defender is not harassed or intimidated or falsely implicated in future and give this assurance to the NHRC of India in writing immediately and urgently.
- Direct the Superintendent of Police of Sonipat to submit a report on non-registration of FIR despite letters from Ms. Nodeep and her co-workers.
- Guarantee in all circumstances the physical and psychological integrity and security of WHRD Nodeep Kaur who is still in jail.
- Ensure provision of reparation, compensation, apology to the defender for the physical and psychological sufferings he underwent because of the physical assault, ill-treatment and custodial torture and provide a re-assurance of not engaging in such acts.
- Take steps to conform to the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998 which recognizes the legitimacy of the activities of human rights defenders, their right to freedom of association and to carry out their activities without fear of reprisals.
- Put an end to all acts of harassment and intimidation against all human rights defenders in general in Haryana to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances.

Looking forward to your immediate action in this regard

Yours sincerely,



(Henri Tiphagne)

National Working Secretary