



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

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March 16 2023

To
Mr. Indrajeet Kumar,
National Focal Point - Human Rights Defenders & Deputy 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: Fabricated charges and illegal arrest of journalist Mr. Rabin Das by Odisha police for his reportage on corruption.

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 concern over fabricated charges and arrest of journalist Mr. Rabin Das by Odisha police in Dhenkanal district.

About the Human Rights Defender:

Mr. Rabin Das is a journalist based in Bhuban block of Dhenkanal district. He works with the Odia daily **Sambad**, and has extensively reported on illegal mining, corruption and pilferage in rural Odisha.

Source of Information:

- Communication with HRDA East Co-ordinator
- Communication with other HRDs in the region
- Police records

The Perpetrators:

- Mr. Saubhagya Swain, Officer in Charge, Bhuban Police Station
- Mr. PK Dey, SDPO and Investigating Officer in FIR no 49/ 2023 and 50/2023
- Other personnel of Bhuban Police Station.

Date of Incident:

March 7, 2023

Place of Incident:

Dhenkanal district, Odisha

Background of the Incident:

On February 19, Mr. Rabin Das published a story in the Odia daily *Sambad* regarding corruption worth Rs. 13 lakh in the MGNREGA programme in Bhuban block. Mr. Das's report detailed how payments for the said amount was made in the name of hundreds of workers although no work was undertaken on ground.

On February 20, 2023, one day after Mr. Rabin Das exposed the major scam in MGNREGS through his reportage, two FIRs were registered against him at the Bhuban Police Station in Dhenkanal district.

The complainant in the first FIR (49/2023) was Mr. Lambodar Malik, resident of Ektali gram panchayat in Bhuban block. In the complaint, he claimed that Mr. Rabin Das owed him some money, but when he asked Mr. Das for the same at around 2 PM on February 20, Mr. Das abused him in casteist terms, attacked him and threatened to kill him. Mr. Das was charged under Sections 341, 294, 323, 307, 506 IPC, Sections 3 of SC/ST Prevention of Atrocities Act. Mr. PK Dey, SDPO was designated as Investigating Officer in the case.

The complainant in the second FIR (50/2023) was Litua Patra, of Balibo gram panchayat in Bhuban block. In the complaint, he claimed that Mr. Rabin Das owed him some money, but when he asked Mr. Das for the same at around 5 PM on February 20, Mr. Das abused him in casteist terms, attacked him and threatened to kill him. Mr. Das was charged under Sections 341, 294, 323, 506 the Indian Penal Code and

Sections 2 and 3 of the SC/ST Prevention of Atrocities Act. Mr. PK Dey, SDPO was designated as Investigating Officer in the case.

Details of the Incident:

At around 11 AM on March 7, 2023, Mr. Das was buying medicines at Chanchala medicine shop in the Kali Bazar market area of Bhuban village, when he was approached by four policemen. The policemen – all in uniform and wearing name tags – were led by the Officer in Charge of Bhuban Police Station, Mr. Saubhagya Swain, who told Mr. Das that he was being arrested as there were cases under the SC/ST Prevention of Atrocities Act against him.

The policemen forcibly arrested Mr. Das from the spot without showing any arrest warrant, or providing details of cases against him, or allowing him to contact his family and/or lawyer violating **multiple DK Basu guidelines of arrest and detention** as directed by the Honourable Supreme Court.

The policemen also paraded Mr. Das through the Kali Bazar market area for over one hour, with the Officer in Charge Mr. Swain asking him aloud where he had hidden the ganja. Mr. Swain also made a video of the parade before taking him away to the Bhuban police station.

On March 07, 2023, Mr. Rabin Das was produced in court and remanded to judicial custody. He is currently lodged in Kamakshyanagar sub-jail. His family members and colleagues fear he may be falsely implicated in other additional cases.

We believe that the police fabricated Mr. Rabin Das in false cases and arrested him in reprisal for his reportage on corruption in government schemes.

It is noteworthy that the police registered two FIRs against a well-known journalist merely on the basis of complaints, whereas in the case of FIR no 50/2023, the complaint did not even bear the signature of the complainant.

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 as well as a complete violation of their human rights as guaranteed by national and international laws.

The right to exercise freedom of speech and expression is enshrined under Article 19(a) and the right to assemble peacefully 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.

Further, the Declaration on human rights defenders adopted in 1998 by the UN general Assembly was Clauses 2 and 3 of Article 12 of the declaration state: *"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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms."*

Free media is an extremely important fourth pillar of the Indian democracy. Our Constitution gives journalists the right to exercise freedom of speech and expression under Article 19(a) of the Indian Constitution, which is crucial to the work of HRDs, including journalists. The right to freedom of expression encompasses three different aspects: 1) the right to hold opinions without interference; 2) the right to access information, and 3) the right to impart information and ideas of all kinds. A free press and active civil society are essential to ensure the public's right to know so that governments and institutions can be held accountable. The protection of journalists and ending impunity for attacks against them is a priority for safeguarding freedom of

expression. States are under an obligation to prevent, protect against, and prosecute attacks against journalists.

When journalists like Mr. Rabin Das are implicated in fabricated cases in reprisal for reporting on corruption these rights are grossly violated.

Appeal:

We appeal to the NHRC to treat this as a serious case of reprisal against human rights defenders for exercising their constitutionally guaranteed fundamental rights, and urge the NHRC to urgently –

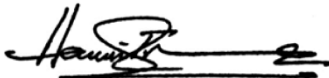
- Direct the Director General of Police of Odisha to initiate an immediate, independent, thorough, transparent, effective, and impartial investigation into the reprisals against journalist Mr. Rabin Das in and submit a report to the NHRC within 4 weeks.

Depending on the result of the investigation, initiate strict action against Mr. Saubhagya Swain, Officer in Charge, Bhuban Police Station and Mr. PK Dey, SDPO police and government officials who misused their powers to implicate Mr. Rabin Das and arrest him in violation of the DK Basu guidelines. Direct the Director General of Police of Odisha to initiate steps towards quashing of fabricated charges against Mr. Rabin Das

- Direct the Director General of Police of Odisha to mandatorily conduct trainings on law and duty of the police for all police personnel and report the update on the same to the NHRC within three months.

Looking forward to your immediate action in this regard.

Yours sincerely,



Henri Tiphagne
National Working Secretary

Fabricated charges and illegal arrest of journalist Mr. Rabin Das by Odisha police for his reportage on corruption.

The letter to the National Human Rights Commission (NHRC) addresses the urgent appeal for action regarding the fabricated charges and illegal arrest of journalist Mr. Rabin Das in Odisha. Mr. Das, known for reporting on corruption and illegal activities, was arrested on March 7, 2023, following the publication of a story exposing corruption in the MGNREGA program. The arrest, allegedly based on false complaints, violated DK Basu guidelines, and the journalist was paraded through the market area without proper documentation.

fundamental right to life and personal liberty granted by Article 21 of the Indian Constitution, The right to exercise freedom of speech and expression enshrined under Article 19(a) and the right to assemble peacefully under Article 19(b) of the Indian Constitution have been violated.

The HRDA urges the NHRC to treat this as a serious case of reprisal against human rights defenders, emphasising the violation of fundamental rights and the right to freedom of expression. It requests an independent investigation into the reprisals, strict action against involved police personnel, quashing of fabricated charges, and mandatory police training on law and duty. The protection of journalists is highlighted as crucial for upholding freedom of expression and holding institutions accountable.