



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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To
Mr. Srinivas Kamath,
National Focal Point - Human Rights Defenders & Joint 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: Journalist and HRDs sent notice to submit Rs 2 lakh in surety by police and administration of Balarampur, Uttar Pradesh for potential breach of peace.

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 notice sent by the Balarampur Police and administration to journalists and activists accusing them of potential breach of peace and taking Rs. 2 Lakh in bail bonds them and harassing them from publishing news against the State. This is a gross violation of the Right to Freedom of Expression granted by our Constitution.

Source of Information:

- Communication with the HRDA North Regional Coordinator
- Communication with the victims

Date of Incident:

January 14, 2022

Place of Incident:

Tulsipur, Balarampur, Uttar Pradesh

The Perpetrators:

- Inspector in Charge, Pachpedwa Police Station, Balarampur
- Sub Divisional Magistrate, Tulsipur, Balarampur, Uttar Pradesh

About the Human Rights Defender:

Mr. Shoaib Qamar (23) is a freelance journalist from Balrampur. He has been working as a journalist from the last 3 years and was the Bureau Chief of the Crime Press News Paper, in Balrampur, Uttar Pradesh. He works on development news related to his local area of Balrampur.

Details of the incident:

On January 14, 2022, a notice under section 111 of Criminal Procedure Code was sent to 10 people including journalist Mr. Shoaib Qamar by Sub Divisional Magistrate, Tulsipur, Balrampur.

The notice stated that based on the report of the Inspector Incharge of the Pachpedwa police station, tension and disruption of peace is expected due to the future UP elections. Thus, the sub divisional magistrate of Tulsipur orders them to be personally present in the sub divisional court on January 22, 2022, to submit 2 lakh rupees each as a surety bond or property worth the amount and 'jamat' from two people.

On January 22, 2022, journalist Mr. Shoaib filled a surety bond of Rs 2 Lakh, for without fulfilling the surety he would have faced a future arrest. As a local grassroots journalist Mr. Qamar faced a major difficulty is gathering the sum of 2 Lakh rupees and 2 people who would give him a 'jamat' (bail bond). Mr. Qamar has stated that there is a lot of pressure on him to not do any articles against the government or the money will not be returned to him.

We believe that this notice is a completely arbitrary, illegal, and serious violation of constitutionally guaranteed personal liberty. It's purpose is to gag democratic dissent against the government.

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.

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 of access to information; and 3) the right to impart information and ideas of all kind.

The Supreme Court in *Shreya Singhal v. State* (2015) had observed that there are three concepts which are fundamental in understanding the reach of this most basic of human rights which are discussion, advocacy and incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in. It is at this stage that a law may be made curtailing the speech or expression that leads inexorably to or tends to cause public disorder or tends to cause or tends to affect the sovereignty & integrity of India, the security of the State, friendly relations with foreign States, and so on. Article 21 of the Constitution ensures to all its citizen right to life – a life to live without fear, intimidation, harassment or mental torture.

Article 19 of the Universal Declaration of Human Rights (UDHR) also proclaims the right to freedom of expression, which includes freedom “to seek, receive and impart information and ideas through any medium regardless of frontiers”. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) sets forth the right to freedom of opinion, expression and information.

Globally, journalists who are human rights defenders as well face major risks as a result of their work both from the state and out of state actors. The protection of journalists and human rights defenders, and ending impunity for attacks against them, is a global priority for safeguarding freedom of expression. States are under an obligation to prevent, protect against, and prosecute attacks against journalists and human rights defenders.

The Declaration on Human Rights Defenders seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights. If journalists are muffled up their reporting on facts when they criticise politicians and public officials, journalists will not dare to take a stand and the fourth pillar of the democracy will be crushed.

Appeal:

We appeal to the NHRC to treat this as a case of reprisal against journalists and HRDs for exercising their fundamental rights guaranteed through Article 19 of the Indian Constitution and malafide actions by the UP administration and police. Thereby, we urge the NHRC to:

- Order the DGP of Uttar Pradesh to initiate an independent, impartial and transparent inquiry into the reasons for the investigation report against Mr. Qamar for a potential breach of peace by the Inspector in Charge, Pachpedwa Police Station, Balarampur and submit the report to the NHRC within 2 weeks.
- Depending on the result of the investigation, order the DGP of Uttar Pradesh to initiate strict action against the police official who flouted the Constitution by insisting journalists and HRDs filing bonds worth lakhs of rupees, thus trying to put pressure on them to not report against the government.
- Direct the Sub Divisional Magistrate of Tulsipur to cancel the notice asking all journalists and activists including Mr Qamar to submit surety bond which is against their Constitutional Right.
- Put an end to all acts of harassment and intimidation against all journalists and HRDs in Uttar Pradesh 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