



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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To
Mr. C.S Mawri,
National 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 – West Bengal: Illegal arrest of HRD Mr. Tipu Sultan under fabricated charges.

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 in to express our concern over the illegal arrest of HRD Mr. Tipu Sultan under fabricated charges by the West Bengal Police.

About the Human Rights Defender:

Mr. Tipu Sultan (27) is a social activist residing in Gurupally village under Bolpur Police Station in Birbhum district. He has participated in numerous struggles in the past 5-6 years highlighting instances of human rights violations and injustice, including cases of malnutrition, suicide and the rape and murder of minor girls from marginalised communities in the area.

Source of Information:

- Communication with the HRD's family
- Communication with other HRDs in the region
- Police records
- Media reports

The Perpetrators:

- Mr. Debasis Pandit, Sub Inspector and Officer in Charge, Santiniketan Police Station
- Mr. Sumanta Biswas, Inspector and Officer in Charge, Bolpur Police Station
- Mr. Tanmoy Ghosh, Sub Inspector and Officer in Charge, Ilambazar Police Station
- Mr. Pinaki Dey, Sub Inspector, Bolpur Police Station

- Mr. Pranab Kanti Sahoo, Inspector and Officer in Charge, Jhargram Police Station
- Other personnel of Santiniketan, Bolpur, Jhargram and Ilambazar Police Stations

Date of Incident:

October 12, 2021

Place of Incident:

Gurupally village, Birbhum district, West Bengal

Background of the Incident:

In September 2021, a three-year-old girl was brutally raped and murdered in Paruldanga, Birbhum. A students group called Students' Unity for New Society (SUNS) conducted a fact-finding into the incident and organised several street corner meetings in and around Santiniketan drawing attention to the failure of the police and administration in preventing such incidents. Mr. Sultan is a former member of SUNS. Although he did not accompany the fact-finding team, he participated in several public meetings that demanded strict punishment for the accused and justice for the victims.

Details of the Incident:

On October 12, 2021, between 11-11.30 PM, around 6-7 policemen visited Mr. Sultan's residence in Gurupally village in a police vehicle. Only Mr. Sultan and his grandfather were at home then, whereas his parents were not there. Four of the policemen were in uniform whereas the others were in civil dress, and none of them wore name tags for identification. They claimed they were from Santinketan Police Station and stated that Mr. Sultan was required to accompany them as they wanted to question him.

The policemen did not provide any further information on why he was required for questioning, where he was being taken and whether he was being arrested despite repeated queries. Instead, they pushed and shoved aside his grandfather, forcibly dragged the HRD into the police vehicle in his vest and shorts without allowing him to change clothes or wear slippers, and sped away.

Mr. Sultan's grandfather visited the Santiniketan Police Station shortly thereafter to inquire about his grandson, but personnel on duty said that the HRD was not lodged there and they knew nothing about his detention or arrest. Mr. Sultan's family members, friends and delegations of the Association for the Protection of Democratic Rights (APDR) visited Santiniketan and Bolpur Police Stations several times on October 13, 2021, but police personnel denied any knowledge about his detention/arrest, and said that the family could file a missing complaint in the matter.

On the evening of October 13, 2021, police hand delivered a letter to Mr. Sultan's father at their residence in Gurupally informing him that Jhargram district police had arrested Mr. Sultan in a five-year-old case. Signed by Sub Inspector Mr. Pinaki Dey from Bolpur Police Station, the letter stated that the HRD was arrested on October 13, 2021, in connection with Belpahari Police Station Case No. 11/2016 under Sections 120B (criminal conspiracy), 121 (waging war against the state), 121A (conspiracy to commit offences punishable by section 121), 122 (collecting men, arms, ammunition

to wage war), 123 (Concealing with intent to facilitate design to wage war), 124A (sedition) of the Indian Penal Code, Sections 25 and 27 (dealing with the buying, selling, possession, repair, use of arms, etc) of the Arms Act, Sections 3 (causing explosion likely to endanger life or property) and 4 (attempt to cause explosion) of the Explosive Substances Act and Sections 18 (conspiracy), 20 (membership of a terrorist gang) and 23 (enhanced penalties) of the Unlawful Activities Prevention Act.

We believe that the police acted with malafide intentions to detain and arrest Mr. Sultan and tagged him in a five-year old case involving draconian charges.

- Firstly, mandatory arrest procedures were flagrantly violated on October 12, 2021. Some policemen who detained the HRD from his home were not in uniform and none wore name tags; they claimed they were from Santiniketan Police Station, (whereas it is suspected that they were personnel from Jhargram district police that officially arrested him); they showed no arrest warrant or arrest memo, and did not provide the HRD access to a lawyer. All these are gross violations of the Supreme Court guidelines in D.K. Basu vs. State of West Bengal. Police also physically pushed his old grandfather and did not show a custody memo as required under Section 50 of the CrPC.
- Secondly, police did not provide any information to the HRD's family regarding his whereabouts for over 18 hours and misrepresented facts of his arrest in the letter to his father. While the HRD was detained from his home at around 11.30 PM on October 12 and taken to Ilambajar Police Station and shifted to Jhargram Police Station on the late in the evening on October 13, 2021, the letter claimed he was arrested on October 13, 2021, but did not specify the time or place of arrest.
- Thirdly, based on the fraudulent claim in the police letter, the HRD was produced in Jhargram Court on October 14, 2021, more than 24 hours after his arrest and in violation of Section 167 of the Code of Criminal Procedure in India. The court remanded him in judicial custody, and he is currently lodged in Jhargram Jail.
- Fourthly, the HRD was tagged in a five-year old case in which no progress was apparent since the arrest of one accused in the initial months. In 2016, Belpahari police arrested a man named Mr. Jairam Murmu allegedly with a weapon and Maoist poster in connection with Belpahari Police Station Case No. 11/2016, but the accused was released within a year, and the case was dormant till Mr. Sultan's arrest was attributed to it.
- Fifthly, in November 2018, Mr. Sultan was arrested by the West Bengal Police and charged under draconian sections including sedition, but he was released on bail in 2019 as the police could not produce a chargesheet against him in court. At the time, police did not inform the court of any other pending case against the HRD, or seek his remand and custody in the 2016 UAPA case. This past history made him an easy target for the police, especially because he was exposing the failure of the state machinery in preventing recent instances of rape and murder of minor girls in Paruldanga, Birbhum.

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 Clause 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."*

When HRDs like Mr. Sultan are falsely implicated in legal cases involving draconian charges, illegally detained and arrested, these rights are grossly violated.

Appeal:

We thus request the Hon'ble Commission to urgently:

- Direct the Director General of Police, West Bengal, to initiate an independent inquiry into framing of the HRD in a false case and his illegal arrest, violating the DK Basu guidelines and submit a report to the NHRC in two weeks.
- Depending on the result of the inquiry, take stern action against responsible police officials and take measures to quash false charges against the HRD.
- Direct the state government to provide him a compensation of Rs 1 Lakh towards physical and emotional distress and legal costs.
- Ensure that the HRD and his family are protected from further harassment and/or arrest by police.

Looking forward to your immediate action in this regard.

Yours sincerely,



Henri Tiphagne

National Working Secretary