



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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July 26, 2022

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: Illegal detention, arrest and fabricated charges against Mr. Rama Muduli, Mr. Madan Gunija and other HRDs by Odisha 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 concern over the illegal detention and arrest of Mr. Madan Gunija and other HRDs under fabricated charges by Odisha Police. Several other HRDs including well-known activist Mr. Rama Muduli have also been named in fabricated FIRs.

About the Human Rights Defender:

Mr. Rama Muduli is a member of the Koraput Jan Suraksha Sangh, an organisation that works towards protecting the rights of marginalised communities in Odisha's Koraput district.

Mr. Madan Gunija, Mr. Kamlochan Jani, Mr. Purna Maji, Mr. Sundar Muduli, and Mr. Ramdas Pukia are members of the Harsuku Chinamati Sangh, an organisation devoted to the protection of the rights of china clay mining-affected people in Odisha's Koraput district. They work as daily wage labourers and have participated in numerous peaceful protests and demonstrations against mining activities undertaken in violation of existing laws.

Source of Information:

- Communication with HRDA East Region co-ordinator
- Communication with other HRDs in the region

- Police records

The Perpetrators:

- Mr. Prafulla Kumar Lakra, Inspector and Officer in Charge, Nandpur Police Station, Investigating Officer in FIR 40/2022
- Mr. Sanjaya Kumar Mohapatra, Deputy Superintendent of Police and Investigating Officer in FIR 41/2022
- Mr. Bedabara Sahu, Sub Inspector, Nandpur Police Station
- Other personnel attached to Nandpur Police Station

Date of Incident:

May 1-2, 2022

Place of Incident:

Koraput district, Odisha

Background of the Incident:

On the morning of May 1, 2022, residents of Harsuku and neighbouring villages under the Nandpur Police Station in Odisha's Koraput district approached authorities at the Harsuku China Clay mine. They requested the authorities to suspend mining for 15 days on account of their harvest festival, as traditional customs barred any digging activities during the period. But their request was turned down, and security guards and mining officials allegedly abused and intimidated villagers, which led to heated arguments, pushing and shoving between the two sides. Subsequently, two FIRs about the incident were registered at the Nandpur Police Station.

The first FIR (40/ 2022) was based on a complaint by Mr. Pentapati Lakshman Swamy, leaseholder of the china clay mine, who claimed his staff was violently attacked and kidnapped by villagers. It was registered on May 1, at 9:30 PM, and 67 named accused were charged under Sections 147 (rioting), 148 (rioting with a deadly weapon), 149 (unlawful assembly), 294 (obscene acts or words), 307 (attempt to murder), 323 (voluntarily causing hurt), 324 (Voluntarily causing hurt by dangerous weapons or means), 364A (kidnapping for ransom), 395 (dacoity), 427 (mischief causing damage up to Rs 50), 506 (criminal intimidation) of the Indian Penal Code.

The second FIR (41/2022) was based on a complaint by Sub Inspector Bedabara Sahu from the Nandpur Police Station, who claimed villagers attacked and abducted police officials. It was registered on May 2, at 12.15 AM, and named 11 named accused were charged under Sections 147 (rioting), 148 (rioting with deadly weapon), 323 (voluntarily causing hurt), 324 (Voluntarily causing hurt by dangerous weapons or means), 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), 307 (attempt to murder), 294 (obscene acts or words), 379 (theft), 506 (criminal intimidation) and 149 (unlawful assembly with common intent) of the Indian Penal Code and Sections 25 and 27 of the Arms Act.

It is important to note that well-known HRD Mr. Rama Muduli and several other members of Harsuku Chinamati Sangh were named as accused in FIR no 40/ 2022 although they were not present at the incident spot.

Details of the Incident:

On May 2, 2022, Harsuku residents Mr. Purna Maji and Mr. Ramdas Pukiya travelled to the Hikimput residential school to drop off Mr. Pukiya's six-year-old son, who studied there. When they were near the Budhwar Haat (market) in Nandpur, they were intercepted by 3-4 men in civil dress, who claimed they were policemen and asked for their names and villages. They forcibly detained the two HRDs and the minor child and took them to the Nandpur Police Station.

On May 2, 2022, at around 3 PM, when Mr. Madan Gunija was at the Paliba Haat (market) to buy vegetables, he was stopped by two uniformed policemen. The policemen asked him which he was from. Upon hearing that he was a resident of Proja Khudbi village adjacent to Harsuku, they forcibly detained him and took him to the Nandpur Police Station.

The same day, when it was almost evening, a team of uniformed policemen raided Harsuku village. They forcibly detained Mr. Sundar Muduli and Mr. Kamlochan Jani, who were sleeping in their houses, and took them to Nandpur Police Station.

All five HRDs as well as the minor boy were detained overnight at the Nandpur police station. While the minor was let off the next morning on May 3, the HRDs were shown as arrested under FIR no 41/2022, Nandpur Police Station. They were subsequently taken under remand in FIR no 40/2022, Nandpur police station.

It is important to note that none of the HRDs were present at the site when the altercation pertaining to the two FIRs took place. All five HRDs were granted bail on FIR no 41/2022 on July 16, 2022, and sent to judicial custody in FIR 40/2022 till July 27, 2022. They are currently lodged in Circle Jail, Koraput. Jail authorities have not allowed their families to meet the HRDs despite the relaxation of COVID protocols.

We firmly believe that the police arrested Mr. Madan Gunija, Mr. Kamlochan Jani, Mr. Purna Maji, Mr. Sundar Muduli, and Mr. Ramdas Pukiya in reprisal for their activism. The brazen, pre-meditated manner of their arrest in violation of multiple DK Basu guidelines raises serious questions about the intent of the police. None of the HRDs were informed about their arrest, the reasons thereof or the charges against them. Neither were they shown any arrest warrant or allowed to inform their families or lawyers before being taken into custody.

Meanwhile, Mr. Rama Muduli and other activists of Harsuku Chinamati Sangh who have been named in the FIRs fear being arrested too without due procedure.

These instances amount to an abuse of the HRDs' fundamental right to life and personal liberty granted by Article 21 of the Indian Constitution as well as a violation of their human rights as guaranteed by national and international laws.

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 are subject only to the limitations permitted by international law, in particular international human rights law.

Further, Article 12 of the Declaration on human rights defenders adopted by consensus by the General Assembly in 1998 state: *“(2) 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. (3) 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.”*

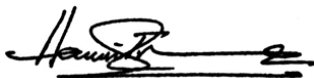
Appeal:

We thus request the Hon’ble Commission to urgently:

- Direct the Director General of Police, Odisha, to initiate an independent inquiry into the illegal detention, arrest and feared torture of Mr. Madan Gunija and others and submit a report to the NHRC in two weeks.
- Depending on the result of the inquiry, take stern action against errant police officials who misused provisions of law and detained and arrested the HRDs (including the minor child) in violation of due procedure and their human rights.
- Direct the prison authorities at the Circle Jail, Koraput to follow all the human rights due to prisoners as directed by the Protection of Human Rights Act 1993.
- Ensure that HRDs in the Odisha are allowed to assemble peacefully and carry out their genuine human rights work as per the fundamental rights enshrined in the Indian Constitution.

Looking forward to your immediate action in this regard.

Yours sincerely,



Henri Tiphagne
National Working Secretary