



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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May 25, 2017

To,
Shri Srinivasa Kammath
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

Sub: HRD Alert - India – Urgent Appeal for Action – Chhattisgarh: Illegal arrest, detention and torture of Mr. Podiyami Panda, former sarpanch in Chintagufa village of Chhattisgarh by joint team of CRPF and local police – Regarding

Dear Sir,

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 now writing to express our grave concern regarding the illegally arrest, detention and custody of Mr. Podiyami Panda, former sarpanch of Chintagufa village in Sukma district of Chhattisgarh.

Source of Information on the Incident:

- The Coordinator of HRDA for the East of India
- Media sources
- Communication with HRDs in the region
- Habeas Corpus petition (WP HC No.12 of 2017) filed by Ms. Podiyami Muiye, wife of the HRD in the Chhattisgarh High Court, Raipur

The Perpetrators:

1. **Vivekanand Sinha** Inspector General, Chhattisgarh
2. **P. Sundar Raj** Deputy Inspector-General of Police (Dantewada Range)
3. **D.M Awasthi**, Deputy Inspector General of Police, Naxal Operations.
4. **Jitendra Shukla**, Additional Superintendent of Police, Sukma

The Human rights defender:

Mr. Podiyami Panda, is the former *sarpanch* for Chintagufa village in Chhattisgarh. He had been a *sarpanch* for that village for three terms till the year 2010. Mr. Panda during his tenure as the *sarpanch* of Chintagufa village opposed Salwa Judum movement which was supported by the State administration and has been termed unconstitutional by the Hon'ble Supreme Court.

In the year 2005, Mr. Panda negotiated for the safe return of seven CRPF men who had been kidnapped by Maoists. In 2012, he went on to mediate the release of Mr. Alex Paul Menon, the former district collector of Sukma, who was also kidnapped by Maoists. Mr. Panda has been critical in protecting the human rights of the villagers around Chintagufa. When the National Human Rights Commission was tasked by the Supreme Court with investigating about Salwa Judum, he brought several of the victims to testify before NHRC. Mr. Panda was also instrumental in bringing the victims of rape in Samsetti village before the Court.

Mr. Panda has also reported about the case of a minor girl from Chintagufa who had alleged rape by the security forces in April 2017. She had severe injury marks on her neck to prove she was attacked but was forced to backtrack on her complaint after being kept in police custody for three days during which she was not allowed to meet anyone. Her case is pending before NHRC.

Date of Incident:

May 3, 2017 onwards

Place of Incident:

In the forests near Minpa, near Chintagufa in Sukma district Chhattisgarh.

Incident detail:

As per source, Mr. Podiyami Panda went missing from his village from May 3, 2017. Mr. Panda was taken into custody by a joint team of CRPF and District Police from the forest near Minpa while he was on his bike on the way to check on a fishpond. A few villagers who were collecting *tendu* leaves witnessed this and told his wife and they have also reported that he was badly beaten by the patrolling party of CRPF and District Police. Along with him Podiyam Sushil s/o Mooka, Podiyam Hurra s/o Hidma, Vetti Malla s/o Vetti Bodu, and Hadma, s/o Minpa - all of whom are school going boys were also taken into custody, whose whereabouts are still unknown.

A few newspapers carried reports on May 4, and May 7, 2017, that he was in police custody regarding the recent attack on CRPF personnel in April 2017. Ms. Podiyami Muiye, wife of Mr. Panda, upon knowing about her husband's detention from the news reports, attempted to meet him at Chintagufa Police Station where the police officers denied any information regarding detention of Mr. Panda. She was forced by the officers in Chintagufa police station, who also intimidated her, and forcefully made her to sign in three blank papers. Ms. Muiye then went to the District Police Headquarters in Sukma but she could not find any information about his whereabouts and whether he was detained by the police.

On May 10, 2017, Ms. Muiye visited Sukma Kotwali Police Station to seek information about her husband. She also took some of his clothes to be given to him. The police authorities did not allow her to meet Mr. Panda but took his clothes from her and assured her that the clothes will be given to Mr. Panda.

In desperation, finally the family filed a *habeas corpus* petition in the Chhattisgarh High Court in Bilaspur on May 12, 2017. On the same evening, the police summoned Mr. Panda's brother to meet him, and the next day on May 13, 2017, the police took another brother of Mr. Panda into custody on the pretext of calling him to meet Panda. Later one of his brothers Mr. Podiyami Komal was permitted to meet Mr. Panda where he found him limping and one of his heel was swollen and turned blue, which clearly demonstrates that Mr. Panda was tortured in police custody.

On May 13, 2017, Mr. Panda placed several calls to his wife, telling her that he had 'surrendered' to the police on May 9, 2017, and did not want to return to the village, and that he is free to go wherever he wants but cannot come to Bilaspur to meet her because he has no money. Ms. Muiye felt that he sounded stressed and fears that these calls are being made under duress from police custody.

Five days later, on May 17, 2017, the police produced Mr. Panda before the media in Jagdalpur, declaring that he had voluntarily surrendered and confessed to having been actively involved with the attack on CRPF personnel on April 24, 2017. In the court, the police challenged Ms. Muiye's petition, claiming that Panda had surrendered to the police on May 9, 2017. In their affidavit, the police had falsely stated that Mr. Panda was the deputy commander (militia) of *Duled Janatana Sarkar* of the banned Communist Party of India (Maoist) and had surrendered to the police "without any arms and ammunition".

On May 18, 2017, a Division Bench of the Chhattisgarh High Court in Bilaspur ordered that Mr. Panda be produced in the Court on May 22, 2017. Upon the order of the Court, the police produced Mr. Panda where he told the Judges that he had surrendered to the police voluntarily and also said that he wishes to stay in the police camp as he fears for his life from the naxalites. He was attended by the police while giving his custody. The Court ordered that Mr. Panda should be allowed to interact with his wife in the Court Hall.

Outside the court, when Mr. Panda's wife and children attempted to meet him, they, along with her lawyers, were abused by the Additional Superintendent of Police Mr. Jitendra Shukla, who told them they would have to file another habeas corpus petition if they wanted to meet him directly. Finally, on the intervention of a court security officer, his wife and children could meet him briefly. His wife said that he was under tremendous pressure and tortured.

False implication of others

It is pertinent to note that in January 2017, the Chhattisgarh police claimed that it would act on "white-collared Naxals" referring to human rights activists who have criticised human rights violation by security forces in the region, from creating hurdles to Bastar's development.

After the illegal detention of Mr. Panda, the police are now claiming that he has admitted to having been a vital link between Maoist leaders and human rights activists like Delhi University Prof. Nandini Sundar and Ms. Bela Bhatia. The affidavit stated that as the undisputed sarpanch of Chintagufa village for 10 years, Mr. Panda gained access to many Maoist leaders, which enhanced his social status as many social workers like Prof. Sundar and Ms. Bhatia would approach him to take them to Maoist leaders. Both Prof. Sundar and Dr. Bhatia have denied this.

Prof. Sundar was one of the key petitioners in the Supreme Court against the Salwa Judum, which was a government supported vigilante group who were accused of widespread human rights violations in Chhattisgarh. In 2011, the Supreme Court deemed the group unconstitutional and held the state responsible for the atrocities its members have been accused of.

Ms. Bhatia was instrumental in bringing to light the sexual assaults on Adivasi women by security personnel in the past year. The National Human Rights Commission investigated the cases and found prima facie evidence of serious human rights violations.

In a press release on May 22, 2017, Mr. Jitendra Shukla, ASP Sukma, also falsely claimed that Mr. Panda had accused lawyers Ms. Shalini Gera, Ms. Isha Khandelwal and Ms. Sudha Bhardwaj of forcing his wife to file a *habeas corpus*. No such statement was in fact made in court.

On May 23, 2017, there were demonstrations in Konta town against 'safedposh' naxalites, based on the Mr. Panda's case, demanding for the arrests of Ms. Gera, Ms. Khandelwal, Ms. Bhardwaj, Prof. Sundar and Ms. Bhatia.

In short, the police is forcing Mr. Podiyami Panda to make or claim that he has made false accusations against human rights defenders.

Appeal:

We, therefore urge you to immediately take necessary steps to ensure that

1. Under Section 12 (a) of the Protection of Human Rights Act 1993 (PHRA), enquire into the human rights violations, most particularly custodial torture and inhuman treatment meted out to Mr. Podiyami Panda which led to his statement in the court and establishes forceful surrender.
2. Record statements of Mr. Podiyami Panda and his wife Ms. Podiyami Muiye, in conditions in which they can speak freely and without fear of repercussions.
3. While enquiring under Section 12 (a) of the PHRA, ensuring the independence of inquiry, only do so through Hon'ble Commission's investigation wing.
4. Order for an independent medical examination of Mr. Podiyami Panda, through a panel of doctors who are from outside Chhattisgarh, to ensure the independence of the same.

5. Through the appointment of a senior criminal lawyer, ensure trial monitoring of Mr. Podiyami Panda's case ensuring that he is allowed free and fair trial in the event that he is arrested. If the police is claiming that he is free to go, he should be given a fair chance outside of police custody to say where he wants to be. The senior criminal lawyer, appointed by the Hon'ble Commission, should report to the Hon'ble Commission on a periodic basis.
6. Given that Mr. Podiyami Panda has serious threats to his life, instances of cruel and inhuman torture, petition before the Supreme Court under Sections 12 (b) and 18 (b) of the PHRA to transfer the case out of Chhattisgarh for an independent and speedy investigation.
7. Urge that this complaint is not transferred to the Chhattisgarh State Human Rights Commission for disposal or routinely sent to the Commissioner of Police for investigation.
8. Ensure protection to Ms. Podiyami Muiye as she continues to be under risk of further reprisals from the State forces.

Yours sincerely,



Henri Tiphagne

National Working Secretary