



## HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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April 12, 2021

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](mailto:hrd-nhrc@nic.in)

Dear Sir,

***Sub: HRD Alert - India – Urgent Appeal for Action – Jharkhand: Illegal detention, arrest under fabricated charges and custodial torture of HRD Mr. Kamal Munda by Jharkhand 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 grave concern over the illegal detention, arrest and brutal custodial torture of HRD Mr. Kamal Munda and attempts to implicate him and his family in fabricated cases by Jharkhand Police.

### **About the Human Rights Defenders:**

Mr. Kamal Munda is a resident of Omta village in the Khunti district of Jharkhand. He is a member of Adivasi Adhikar Manch, which works for upholding the land, water and forest rights of indigenous communities in the state. He actively participated in the Pattalgadhi movement in Jharkhand from 2017-19 protesting against the abrogation of the rights of gram sabhas (village councils) along with other members of his family.

### **Source of Information:**

- Communication with family members of the HRD
- Communication with other HRDs in the region
- Police records
- Media reports

### **The Perpetrators:**

- Mr. Kameshwar Kumar, SHO, Maranghada Police Station
- Inspector Mr. Pritam Raj, Mr. Bhajan Lal Mahato and Mr. Rakesh Kumar Mandal, and other personnel from Maranghada and Khunti Police Stations and Tilma Outpost
- Personnel from CRPF Battalion No. 133, Maranghada Camp

**Date of Incident:**

February 19-20, 2021

**Place of Incident:**

Village – Omta, Post – Hakadua, Block- Khunti, District - Khunti

**Background of the Incident:**

Between 2017-2019, Mr. Kamal Munda, his younger brother Mr. Sukhdev Munda and their uncle Mr. Thakura Munda participated in the peaceful Pattalgadi movement. They organised meetings in their area and erected stone plaques with inscriptions from the Constitution of India and various laws delineating the powers of gram sabhas. Mr. Kamal Munda played a key role in organising peaceful protests and resisting attempts by Jharkhand Police set up a permanent police camp in Tilma village in Khunti block bypassing the consent of the gram sabha.

**Details of the incident:**

According to sources, on February 19, 2021, at around 4 pm, Mr. Kamal Munda was intercepted by a police team comprising Maranghada SHO Mr. Kameshwar Kumar, Inspector Mr. Pritam Raj, Mr. Bhajan lal Mahato, Mr. Rakesh Kumar Mandal and personnel from CRPF Battalion No. 133, Maranghada Camp while he was travelling through Maranghada village on a bike.

Police personnel told Mr. Kamal Munda he was required for questioning at the Maranghada Police Station located in the Maranghada Bazar Police Camp, and took him away in the police vehicle without showing him the arrest memo, arrest warrant or informing him or his family of his arrest.

Mr. Kamal Munda's uncle Mr. Thakura Munda visited the Maranghada Police Station with other villagers at around 5 PM on February 19, 2021, and was told that Mr. Kamal Munda had been taken to Khunti.

At around 10 AM on February 20, 2021, he visited the Khunti Police Station, and asked to meet the SHO to inquire about his nephew. He was told to wait for close to an hour, and later told that neither the SHO nor Mr. Kamal Munda were there in the police station. Mr. Thakura Munda and others then visited the Deputy Superintendent of Police's office and residence, but police personnel said Mr. Kamal Munda had not been detained.

Mr. Thakura Munda visited the Tilma outpost at around 5 PM on February 20, 2021, after villagers in Maranghada told that they had seen Mr. Kamal Munda being detained and taken towards Tilma outpost the previous day. But police personnel at the outpost told him, *"Had you come around 30 minutes ago, you could have met him. But he has been taken to Khunti Jail now."* The HRD's family was not provided any information regarding his whereabouts for two days despite their visits to multiple police stations, outposts and offices on February 19 and 20, 2021.

On February 21, 2021, media reports said that Mr. Kamal Munda was arrested and sent to jail for involvement in Maoist activities.

According to the available information, he was arrested in connection with FIR no. 23/19 lodged at the Maranghada Police Station on July 12, 2019, under Sections 25 (1-B) [possession of firearm or ammunition], 25 (1-A) [punishment for carrying firearm, including imprisonment up to ten years], 26 [Secret contraventions] and 35 [Criminal responsibility of persons in occupation of premises] of the Arms Act and Section 17 of the Criminal Law Amendment Act.

The FIR claims several villagers including Mr. Kamal Munda and his younger brother Mr. Sukhdev Munda were participating in a meeting with armed Maoist cadres in their village when a police team raided them at around 2.40 AM on July 12, 2019. It said that while Mr. Sukhdev Munda and several other accused were arrested from the spot with weapons, live cartridges, posters and banners of Communist Party of India (Maoist), Mr. Kamal Munda and a few others escaped into the jungle under the cover of darkness.

Police claimed that Mr. Kamal Munda was absconding since July 2019, whereas the HRD visited the Tilma Police Outpost under Khunti Police Station on two occasions in October and November 2020 after the in-charge of the Tilma Outpost orally summoned him. He was pressured to refrain from opposing the construction of the Tilma police camp and work as a spy for the police on both occasions, but was not told about any pending case against him.

While he was in Khunti jail, Mr. Kamal Munda sent oral information to Mr. Thakura Munda that he had been brutally tortured in police custody at the Tilma Outpost on February 19, 2021, after being illegally detained, and forced to sign a confession.

He said he was asked to work as a spy for the police, but he declined saying he feared being killed. He was then forced to lie down on his stomach on the floor, and two police personnel climbed on him and repeatedly hit him with their boots all over his body for 30 minutes. They also assaulted him with fists and batons, injuring his back. They also asked him confess to his and his younger brother Mr. Sukhdev Munda's involvement in Maoist activities, which too he denied.

Mr. Kamal Munda alleges that the policemen of Tilma outpost forced him to sign a forged confession which said he had been working for the Maoists since 2015 and he arranged food and stay for Maoist guerrillas when they visited the village, passed on information about police movement to them, recruited new cadres and distributed posters and pamphlets for the party. It also said his brother Mr. Sukhdev Munda, currently out on bail was a member of the armed squad of CPI (Maoist).

It is our firm belief that Mr. Kamal Munda and through him, other members of his family are being framed for participating in peaceful protests against the abrogation of the rights of gram sabhas and construction of the Tilma police camp.

Although Mr. Kamal Munda was named in the FIR in 2019, and police claimed he was absconding since, he was not absconding and repeatedly visited the Tilma police outpost where he was neither told of the pending case nor arrested in October and November 2020 after being orally summoned by authorities.

In illegally detaining Mr. Kamal Munda without any due procedure, arrest memo, denying his family information, the police violated multiple provisions (Guidelines 2, 3, 5, 7, and 10) of the DK Basu Guidelines of arrest procedures.

The most heinous human rights violation is the custodial torture Mr. Kamal Munda was put through by the police. The policemen also did not take him for a medical examination after his torture despite complaints of severe back pain.

A number of national and international laws and covenants prevent custodial torture. Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights both provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Whereas Article 2 of the United Nations Convention against Torture prohibits torture, and requires state parties to take effective measures to prevent it in any territory under their jurisdiction.

The UN Committee against Torture (UNCAT), in the revision of the Standard Minimum Rules for the Treatment of Prisoners in 2014, states that prohibition of torture has become accepted as a matter of customary international law. The observations clearly state that restraints and immobilisation should be used as a last resort action and the duration should be for the shortest possible time (usually minutes rather than hours). “Restraint for periods of days at a time cannot be justified and could amount to either torture or ill-treatment.”

The UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels; (article 1). That “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”; (Article 12.2.)

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.

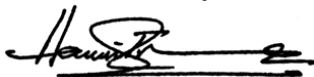
### **Appeal:**

We thus urge the Hon’ble Commission to:

- Initiate an immediate, independent, thorough, transparent, effective and impartial investigation through its investigative wing into unlawful arrest and torture of Mr. Kamal Munda and the other violations of DK Basu guidelines. Towards this, we urge the Hon’ble Commission to examine –
  - arrest memo as required under Section 41B of the CrPC, including name and designation of the police officer who prepared the arrest memo

- medico-legal certificate prepared under Section 53 of the CrPC, as well as report of the medical examination conducted under Section 54 of CrPC
  - Inspection Memo prepared at the time of arrest as required under the guidelines laid down by the Supreme Court in DK Basu vs State of West Bengal [1997 (1) SCC 416], as well as the name and designation of police officer who prepared the said Inspection Memo
  - names, duty records and registers of all arresting/detaining officers and Station In-Charge on duty in the Maranghada and Khunti Police Stations and Tilma Outpost on February 19, 2021
  - vehicle records and registers of the Maranghada and Khunti Police Stations and Tilma Outpost on February 19, 2021
  - call data records of all arresting/detaining officers and Station In-Charge, and wireless records of the Maranghada and Khunti Police Stations and Tilma Outpost on February 19, 2021
  - General Diaries, FIR and arrest registers of the Maranghada and Khunti Police Stations and Tilma Outpost
  - CCTV footage from the Maranghada and Khunti Police Stations and Tilma Outpost on February 19, 2021
- Depending on the result of the inquiry, direct the Director General of Police of Jharkhand to take stern action against those guilty of illegally arresting and torturing Mr. Kamal Munda and forcing him to implicate himself and his family members in fabricated cases.
  - Direct the concerned officials to take measures that all fabricated cases against Mr. Kamal Munda his family members, including charges under the Arms Act and the Criminal Law Amendment Act are dropped, and release him forthwith.

Looking forward to your immediate action in this regard,  
Yours sincerely,



**Henri Tiphagne**  
National Working Secretary