



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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April 22, 2022

To,
Mr. Indrajeet Kumar,
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 – Assam: Misuse of law, fabricated case and illegal arrest of Mr. Jignesh Mevani by Assam 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 misuse of law, fabricated charges and the illegal arrest of HRD and MLA Mr. Jignesh Mevani by the Assam police, for his social media post critical of the PM. The illegal arrest which violates multiple guidelines of the DK Basu guidelines of arrest of the honorable Supreme Court shows increasing criminalization of the Right to free speech and dissent in India.

About the Human Rights Defender:

Mr. Jignesh Mevani is the founder of Rashtriya Dalit Adhikar Manch (RDAM), a Dalit rights organisation which raises issues pertaining to caste atrocities. He is also the MLA of Vadgam Assembly Constituency, Gujarat as well as a lawyer, activist and a journalist. He has been an arduous critic of the current government's policies.

Source of the Information:

Media Reports

The Perpetrators:

Officer in Charge of Kokrajhar police station, Assam
Superintendent of Police, Kokrajhar, police station, Assam
Mr. Surjeet Singh, APS Additional, Kokrajhar, police station, Assam

Date of Incident:

April 20, 2022

Place of Incident:

Circuit House, Palanpur, Banaskantha district, Gujarat

Details of the Incident:

On April 18, 2022, Mr. Mevani tweeted in Hindi –“*Godse ko apna aaradhya dev maan ney wale Pradhan Mantri Modi 20 January se Gujarat se Gujarat daurey par hain; unse appeal hai ki Gujarat mein Himmatnagar, Khambat aur Veraval mein jo kaumi haadse hue unke khilaaf shaanti aur aman ki appeal karein. Mahatma mandir ke nirmata se itni ummeed to banti hai na?*” (Translation: PM Modi who believes Godse to be his God, is on a tour of Gujarat from January 20; I appeal to him to call for peace and harmony for Himmatnagar, Khambat and Veraval in Gujarat which had communal violence. We can hope for this from the maker of the Gandhi temple?)

On April 19, 2022, a complaint (**FIR No. 183/2022**) was filed by a BJP leader Mr. Arup Kumar Dey at the Kokrajhar Police Station in Assam wherein Mr. Mevani was charged under several stringent sections of the Indian Penal Code viz., 120 (B) — Criminal conspiracy punishable with death, life imprisonment or rigorous imprisonment of 2 years, 153 (A) — Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony, 295 (A) — Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs, 504 — Intentional insult with intent to provoke breach of the peace, 505 (1) (b) (c) (2) — Statements conducing to public mischief, and section 66 of the IT Act — Dishonest or Fraudulent acts referred to in section 43, punishable with imprisonment up to three years or a fine up to five lakh rupees or both.

At 11.30 pm on April 20, 2022, a team from the Kokrajhar Police Station, Assam arrested Mr. Mevani from the Circuit House in Palanpur in Gujarat. He was then flown to the Assam, where he was produced before the Chief Judicial Magistrate, Kokrajhar in Assam on Thursday, April 21. The CJM rejected the bail petition by the HRD and sent him to three-day police custody.

According to media reports, Mr. Mevani’s aides were neither shown the FIR against him nor were they informed of the charges against him at the time of the arrest in multiple violations of the DK Basu guidelines of arrest by the honourable Supreme Court.

A member from his organisation Rashtriya Dalit Adhikar Manch (RDAM) told the media that, “no protocol of arresting an elected MLA was followed by the Assam police. They brazenly entered the circuit house late in the night and seized Mevani’s mobile and told him there was an FIR against him and they had come to arrest him. Only after protests at Ahmedabad airport, a copy of complaint was given to us but moment before they boarded the plane. We still don’t have a copy of the FIR. Mevani was not even allowed to speak to his family until the afternoon of April 11.”

We believe that this case is an example of the right to dissent and free speech being increasingly criminalized in India. This is a violation of Article 19(a) of the Indian

Constitution which provides for free speech and power to express oneself to every citizen. Any individual has the right to express one's view and criticise the political establishment. Mr. Mevani has the right to express himself via his social media. It is pertinent to note that in the series of tweets, Mr. Mevani had urged the Prime Minister to appeal for peace and harmony in areas of Gujarat that had been recently rocked by communal violence.

We are deeply concerned by the violation of the DK Basu guidelines of arrest of the honorable Supreme Court during the arrest of Mr. Mevani who is a public representative.

Furthermore, the fact that the FIRs was registered by the Assam police, who are nowhere linked to the ground realities of Gujarat based on a complaint by a BJP leader point to a broader political conspiracy against Mr. Mevani as an attempt to intimidate and stifle his voice as a human rights defender.

The stringent sections under which he is charged, namely of criminal conspiracy, promoting enmity between groups, and deliberate and malicious acts, intended to outrage religious feelings of any class are nowhere applicable to the tweet made by him.

Freedom of expression is crucial in a democracy. The right to freedom of opinion and 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 kinds. On the aforesaid it is stated that 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.

Article 9 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms states that "the State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction."

In this scenario, an arm of the State is the violating the freedoms of a defender for statements made on social media that called for peace and harmony in areas that had been hit by communal violence. In a democracy a comment on political establishment is accepted under freedom of speech and any curbs on criticism of political establishment is against the Constitution.

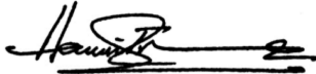
Appeal:

We urge the Hon'ble Commission to treat this as a case of reprisal against the HRD for exercising his fundamental rights guaranteed under Article 19 of the Indian Constitution. Thereby, we urge the NHRC to urgently to –

- Direct the independent wing of the NHRC to initiate an immediate, independent, thorough, transparent, effective and impartial investigation into illegal and un-compounded charges against human rights defender Mr. Mevani.
- Depending on the result of the investigation, direct the Director General of Police to take stringent action against the Assam police officials who flouted the DK Basu guidelines and violated the rights of Mr. Jignesh Mevani.
- Intervene in the appropriate court to quash the fabricated and politically motivated case against Mr. Mevani.
- Depending on the result of the investigation, to initiate strict action against Assam police officials flouting guidelines of arrest procedures as provided under DK Basu guidelines and the CrPC.

Looking forward to your immediate action in this regard.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath it.

Henri Tiphagne
National Working Secretary